

Doorstep selling

A report on the market study

May 2004

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1 SUMMARY AND RECOMMENDATIONS

Introduction

- 1.1 This study of doorstep selling was carried out following a super-complaint from Citizens Advice which raised concerns about a number of issues associated with the process of doorstep selling such as pressure selling. In our response we agreed there could be problems but the extent of them was unclear. However, we noted that the evidence provided suggested that many customers of doorstep sellers that experienced problems were vulnerable (for example housebound or disabled). We therefore decided to look at doorstep selling in greater detail.
- 1.2 Doorstep selling is the practice of selling goods and services where the contract is concluded in the consumer's home or on the doorstep. Throughout this report the term 'doorstep selling' is used for sales made on the doorstep and in the home.¹
- 1.3 As a sales channel doorstep selling covers a wide set of products ranging from household cleaning materials costing £1 or less to replacement double-glazing, costing many thousands of pounds. We have focussed on the biggest selling products by value and those which are targeted at more vulnerable consumers. This has given us an understanding of the way the sales channel works and our conclusions also apply to other products sold through this channel.
- 1.4 We estimate the overall value of those goods and services that we have focussed on, sold through doorstep selling, is at least £2.4 billion.²

¹ We have not considered as selling in the home purchases made from catalogues, mail order or the internet. Nor have we covered sales where the contract is concluded after the sales visit, for example by accepting an estimate at a later date. We have also not considered issues relating to doorstep credit, as the NCC has announced that it will be making a separate super-complaint on this matter and is likely to cover issues wider than the selling practices addressed in this report. That area will consequently be separately considered following that super-complaint.

² This excludes energy sales. It is difficult to quantify the value of doorstep selling precisely since available data generally concentrates on measuring total sales of a product rather than the method by which it was sold. A detailed description of the methods and data sources used to arrive at this figure is at annexe B.

1.5 Given the wide range of products sold through this means we considered doorstep sales in three categories by value of transaction:

- **Low value purchases** – goods or services under £35 per transaction;
- **Mid-value purchases** – products or services valued between £35 and £500; and
- **High value purchases** – purchases in excess of £500.

1.6 We have also considered the separate category of **bogus trading**, where consumers are cold-called and tricked or pressurised into paying large sums often for shoddy goods and services. This often relates to high value transactions but its distinguishing feature is the high degree of deception or intimidation involved.

Characteristics of doorstep selling

1.7 Buying in the home represents a different experience from buying, for example, in a shop. Consumers can enter or leave shops as they wish, the transaction is more impersonal and, if they are unhappy with the way a product is being sold they can walk away. The home creates a very different environment. An academic study we commissioned identified a range of psychological influencing techniques that can be highly effective in inducing the consumer to buy. In our consumer survey, 85 per cent of consumers who said they would never buy through doorstep selling agreed that buying at home involves more pressure than buying in other settings.³

1.8 Associated with this, many consumers have negative attitudes towards doorstep selling. Sixty-one per cent of consumers surveyed had never bought goods in this way, based partly on a dislike of certain features of doorstep selling, such as a lack of trust of salespersons, and partly on a preference for ordinary retail outlets. Of those consumers who had bought through doorstep selling a significant minority were dissatisfied with the

³ Annexe L

product and the sales process.⁴ This is also reflected in the number of complaints made about doorstep selling which is high in relation to the money spent on these products – particularly for high value products.⁵

1.9 Balanced against this, the views of consumers who **had** bought through doorstep selling was more positive. Although they may have experienced problems along the way, the vast majority (over 70 per cent) were happy overall with the sales process and products acquired. It is argued that doorstep selling can have a number of advantages for consumers:

- it avoids the need to travel. This is particularly useful if the product is a specialist one and retail outlets are scarce or if the consumer has mobility problems;
- if the product is complex and requires a time consuming discussion with the supplier, there may be more opportunity for this at home;
- there may potentially be scope for a home demonstration although the appropriateness of this will depend upon the product; and
- cold-calling may be a means of addressing consumer inertia, by actively presenting consumers with new options that may be to their advantage.⁶

Solicited and unsolicited sales

1.10 Doorstep selling takes place in two ways:

- **solicited**, where the consumer actively initiates the visit by the salesperson, for example by specifically requesting a visit in response to an advert or mail shot; and

⁴ Annexe L

⁵ Doorstep selling complaints amount to 1.9 per cent of complaints received by Trading Standards Departments but the value of doorstep sales annually amounts to 0.46 percent of domestic household expenditure. Source Annexe S: TSD snapshot data

⁶ This is argued to be particularly the case for energy sales.

- **unsolicited**, where the visit does not take place at the express request of the consumer, for example where a salesperson makes a cold call.⁷

1.11 The legal protection for consumers under each selling method differs. The Doorstep Selling Regulations⁸ provide a seven day 'cooling off' period for contracts made in the home, during which time the consumer is able to cancel the contract.⁹ This applies to goods and services above £35 in value but **only** if the visit was unsolicited (or follows an unsolicited doorstep or telephone approach).¹⁰ A cooling off period does not apply to sales made during solicited visits. The rationale for this distinction has been that, if consumers are not prepared for the visit they will be more susceptible to pressure sales techniques. It also acknowledges the fact that a consumer who is surprised by a visit from a trader has not had the opportunity to shop around and cannot judge whether the trader is offering a good deal. A cooling-off period allows consumers to reflect on their purchase after the salesperson has left. For solicited sales the presumption is that the consumer, having invited the salesperson, is better prepared and consequently not as susceptible to sales pressure.

⁷ This includes visits following an unsolicited telephone call. The legal definition of an unsolicited visit would also apply to a second visit by a trader, at the consumer's invitation, which follows an unsolicited visit during which the trader indicates, either expressly or by implication, that he is willing to make a second visit. The Doorstep Selling Regulations can also apply to contracts made at a visit requested by the consumer but where the goods or services to which the contract relates are not the same as those for which the consumer requested the visit. See annexe L for a fuller description of the Doorstep Selling Regulations

⁸ The Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 [as amended by The Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) (Amendment) Regulations 1988 and 1998]

⁹ Some categories of contract (for example, insurance contracts) are excepted. The seven day period is conditional on the consumer being given correct information about cancellation rights. Failure to give proper notice means, that the contract is not enforceable against the consumer (and the trader may be guilty of an offence for failing to deliver to the consumer the required notice).

¹⁰ Other legislation is not solely focussed on doorstep selling channels but may sometimes provide some protection. For example, if a good is purchased by linked credit the Consumer Credit Act 1974 provides a cancellation rights and a cooling off period.

1.12 This study assesses whether consumers, whilst enjoying the benefits of doorstep selling, are also suitably protected against its potential detriments. In particular, we have examined whether:

- the current legal protection afforded to consumers effectively addresses the areas where problems occur;
- consumers are aware of their legal rights;
- consumers are sufficiently equipped to make good choices in the context of doorstep selling; and
- consumers are adequately protected against exploitation from bogus traders.

Findings

1.13 As noted above, there are a number of advantages to doorstep selling for consumers, particularly for solicited visits, and there are some high value products that cannot easily be acquired any other way. That said we have identified a number of issues that cause concern. Many consumers find that they have made an inappropriate choice, often as a result of pressure selling, that the prices they have paid were too high and/or that the product they have bought is not suitable for the intended purpose. Subsequently they can find themselves inadvertently locked into a contract with no option to cancel. Added to this, we also have concerns about the effectiveness of current legislation and policy in tackling bogus trading.

1.14 The issues we have identified are most prevalent for high value goods (which attract more than 55 per cent of complaints) but we discuss them in relation to all value sectors below.

Consumer awareness

1.15 Across all categories of doorstep sales we found that consumers are generally unaware of their rights when buying through doorstep selling.¹¹ The majority are unaware that they may enjoy a cooling off period when buying in the home (if the visit was unsolicited) and 34 per cent thought that they had **more** rights when purchasing in a shop. The survey also showed that consumers had some difficulty in making the distinction between solicited and unsolicited visits in accordance with the legal definition except for relatively simple examples.

Low value products

1.16 These include cosmetics, cleaning materials and other household goods. Consumers buying low value products do not benefit from a cooling off period, whether bought through a solicited or unsolicited visit, as they fall below the £35 lower limit contained in the Doorstep Selling Regulations. Our assessment is that doorstep sales of low value products do not merit any changes in existing consumer protection legislation or other initiatives. This is because:

- the products are widely and easily available through other means, there is often a broad awareness of their prices in shops and consequently consumers are, by and large, better able to make an informed choice and to shop around if they wish;
- many suppliers are, for the most part, intent on securing repeated custom through offering convenience and value for money. Those consumers that do make regular repeat purchases are very satisfied with buying at home;¹² and
- since the cost is small, the potential detriment from mis-selling is limited.

¹¹ Annexe K

¹² Annexe G and Annexe L

Medium value products

- 1.17 Gas and electricity sales (i.e. customers switching supplier) account for more than half (53 per cent) of sales.¹³ The remainder is accounted for by bulk buying of low value products (9 per cent), frozen food sales (5 per cent), telephone services (4 per cent) and sales of an assortment of products – domestic appliances, furniture, pictures and carpets – with no other individual product accounting for more than a few per cent. For products other than energy sales, the complaints made (and types of detriment caused) are similar to those for high value products. We are therefore not making any specific recommendations for medium value products but consider they should continue to be treated under the Doorstep Selling Regulations in the same way as high value products. Our recommendations will apply equally to medium value products.
- 1.18 For energy sales there are a significant number of complaints about the doorstep selling of energy, mainly relating to mis-selling. This issue has been recognised by the industry regulator, Ofgem, the statutory consumer body, Energywatch, the DTI and the energy suppliers themselves. A number of initiatives have been launched over the last few years to address the problem including the introduction of the EnergySure scheme¹⁴, the Association of Energy Suppliers Code of Practice and new powers for Ofgem to fine suppliers for non-compliance with licence conditions.¹⁵
- 1.19 These measures in combination appear to be meeting with some success. Since May 2002 complaints have fallen by more than 70 per cent.¹⁶ Ofgem also intends to amend the licence condition relating to direct sales and marketing activity to give further rights to consumers.

¹³ It is estimated that accounts with an annual value of around £1.2 billion may be switching suppliers as a result of doorstep selling giving an average saving to those consumers' of £85 million annually (or 7 per cent of their annual bill).

¹⁴ Which aims to promote best practice in energy selling by accrediting energy sales agents. It sets up a database to provide suppliers with a list of approved energy sales people meeting a "national standard". All major energy suppliers are involved in the scheme.

¹⁵ Which it used to fine a supplier £2 million for failing to stop its sales force from mis-selling to customers.

¹⁶ It should be noted that there are no seasonal factors affecting this fall but that it has taken place against a reduced level of marketing activity.

1.20 Given this, we do not make any direct recommendations in relation to energy sales.

High value products

1.21 The doorstep sales of key high value products are worth more than £2 billion annually. Home improvement products, particularly double-glazing and conservatories account for the majority of sales by value. This sector also includes a number of products targeted at the elderly or disabled such as stairlifts, mobility scooters and adjustable beds. Sales of these products alone are worth more than £200 million annually.

1.22 Most doorstep selling complaints relate to high value products. In our Snapshot Survey¹⁷ they accounted for slightly more than half of all doorstep selling complaints made to Trading Standards Departments (TSDs) and about three-quarters of the most serious doorstep selling complaints made to Citizens Advice. These complaints generally relate to consumers finding they have made an inappropriate choice, often as a result of pressure selling, that the prices they have paid were too high, that the product they have bought is not suitable for the intended purpose, or a combination of these reasons. Subsequently they find themselves locked into a contract with no option to cancel.

1.23 Our analysis bears out these claims:

- Our study by an academic psychologist shows that there can be intense pressure put on consumers buying in the home – both in solicited and unsolicited sales. The study identifies a range of sales tactics and influencing techniques that together are highly effective in securing sales, but can also lead the consumer to make inappropriate decisions. Evidence that these techniques are frequently employed was found in several pieces of research. Common ploys include: offering a high initial price followed by the offer of a discount,¹⁸ a

¹⁷ Annexe S

¹⁸ In our case study of double glazing products we also found that those firms offering the largest discount also gave the most expensive quotes, even after the discount was factored in.

discount on condition that the sale was agreed that day, telephoning a manager/colleague to secure a special deal;

- Prices can vary widely. In general high value products are infrequent purchases and consumers are unlikely to be familiar with prices or the availability of competing products and, as such, are ill-equipped to make instant decisions on offers made. For example, in a tightly controlled comparison of similar double-glazing products we found prices paid by doorstep selling consumers varied by 45 per cent. For certain assistive products we found that consumers buying in the home are paying significantly more than if they bought through other sales channels. For example, for some rise and recliner chairs the price when purchasing in the home was 144 per cent more than the price in a high street store.
- Consumers can find themselves, often inadvertently, locked into contracts. While cooling off periods provide some flexibility for consumers to cancel contracts they regret making, under the current regulations they only apply to sales over £35 made during an unsolicited visit. Our analysis, however, found that:
 - consumers are often as likely to regret a purchase made from a solicited visit as from an unsolicited visit. Analysis of case study data from Citizen's Advice shows that the proportion of consumers attempting to cancel the contract after a solicited visit was 79 per cent, slightly higher than the same proportion in respect of unsolicited visits;¹⁹
 - where cooling off periods are provided by the Doorstep Selling Regulations, they can potentially be undermined by unscrupulous traders who unnecessarily supply goods, or carry out the service before the period expires. The regulations remove the benefits of a cooling off period in these cases to protect legitimate traders from having to bear unreasonable costs of removing work done or taking

¹⁹ Note: this figure was taken from an analysis of complaints thought serious enough by local Citizens Advice bureaux to warrant attention at its national HQ so is a fairly narrow base of dissatisfied consumers. However, for serious cases it is indicative of a first step a dissatisfied consumer may wish to take.

away a product, but there is also the potential for other traders to use this as a loophole to ensure that consumers are unnecessarily locked into contracts. Cancellation rights can also be undermined by other sales ploys. One example is the supply by means of a doorstep sale of a new bed and the offer of a £1 trade in for the existing bed which is subsequently destroyed. Here cancelling the contract would not get the customer their original bed back; and

- consumers are not sufficiently aware of their rights and the extent of protection they have under the law. Our survey found that only 6 per cent of consumers were aware that they may have additional rights when buying via doorstep selling.

Recommendations

Consumer protection

- 1.24 Contracts can be unclear on cancellation rights. Given consumers lack of awareness of their rights, it would benefit them if the cancellation notice were made clearer and more prominent than other parts of the contract to attract attention. **We recommend that the Doorstep Selling Regulations be amended to require notice of cancellation rights and how they may be exercised to be more prominently and clearly displayed in the contract, with a clear indication of the circumstances in which cancellation rights can be lost.**
- 1.25 Cooling off periods are important to discourage the excesses of high pressure selling and give consumers more opportunities to shop around. It is therefore important that **all** consumers should have the 'safety-net' of a cooling off period. We believe that the requirement to allow a cooling off period should be extended to cover solicited sales in addition to unsolicited sales. **We consequently recommend that DTI legislate to give a cancellation right in all sales which take place off business premises, whether or not the sales visit which gave rise to it was solicited by the consumer.**

- 1.26 A closely related issue is the potential undermining of cooling off periods. Regulation 7(2(iv)) of the Doorstep Selling Regulations currently allows this for sound reasons. It provides protection to legitimate traders from having to bear unreasonable costs. On the other hand, it can be used as a loophole by the unscrupulous salesperson seeking unnecessarily to lock the consumer into a contract.
- 1.27 We have considered a number of options to balance these concerns. One possibility is the removal of regulation 7(2(iv)) from the Doorstep Selling Regulations but to allow certain classes of sales that are urgently wanted by consumers. This would address the legal loophole but not other ploys not reliant on that regulation to work.
- 1.28 Another possibility would be to impose a ban on work and/or payment within seven days following a sale as is the case in France. This would address wider issues than just the legal loophole and may also be useful in addressing the problem of bogus traders. However, careful consideration would need to be given to this option. A ban on all work or payment within the cooling off period would not be in the interests of consumers. There will be circumstances where the work is wanted urgently and when a ban would be harmful. This would be particularly problematic if cooling off periods were extended to solicited sales, as we recommend. It may be that a ban could only apply to unsolicited visits or that limited exceptions would be required.
- 1.29 Whilst neither of these options is perfect our view is that they are likely to reduce the possibility of consumers becoming locked in to contracts without their knowing. Exceptions to allow consumers the freedom to get urgent work done would be required. We therefore think it is worth exploring these options further and **recommend that to avoid the undermining of cooling off periods DTI should consult on the removal of the right to recover payment in regulation 7(2)(iv) of the Doorstep Selling Regulations and a possible ban on work and/or payment within seven days for contracts concluded following at least an unsolicited visit, subject to limited exceptions.**

Informing consumers

- 1.30 Better consumer protection has no value if consumers are not aware it exists. It is important that consumers have clear information on their rights and how and when they apply. Clear information on the ploys and selling techniques used by salespersons will also help consumers in spotting when certain tactics are being used. **We intend to run a national consumer education campaign to provide consumers with information on their rights when buying via doorstep selling, to encourage the benefits of shopping around and to inform them on the psychological techniques used by salespeople with advice on how to combat them.**
- 1.31 We intend to run this campaign in concert with partners representing consumer groups in order to achieve the maximum impact.
- 1.32 Advice also needs to emphasise the benefits of getting quotes from a range of suppliers and, where possible comparing quotes with similar products sold in shops. Comparing prices and quality is central to achieving value for money – our study has shown that there are clear benefits to doing so in this sector. The bespoke nature of some products often makes it difficult to give prices in brochures, but we have seen examples which show it can be done. **We would like to see firms selling on the doorstep providing greater transparency on prices for their products and a greater willingness to provide written quotes. We would expect to see this requirement included in any Consumer Code seeking approval from the OFT.**

Bogus trading

- 1.33 Bogus trading is an extreme example of consumer problems from doorstep selling. It occurs when individuals (often the elderly or vulnerable) are cold-called and tricked or pressurised into paying large sums often for very shoddy goods or services. Property maintenance services (such as roofing or tarmacking) are prime examples.

1.34 We have addressed this issue already in our OFT position paper *Legislative options for tackling bogus trading*.²⁰ Briefly, that paper set out:

- **the extent of bogus trading.** We estimate that 15,000 bogus trading cases are reported to UK TSDs each year²¹ (though it is also clear that many cases go unreported). The average value of money paid to bogus traders is well over £2,000 in samples from a number of areas. Even on the basis of these tentative figures we consider this is a serious problem that needs to be tackled;
- **enforcement problems.** Both police and TSDs find it hard to take enforcement action in all but a minority of cases. Many bogus trading offences are possible deception offences under the Theft Act²² but, however shoddy the services provided, quite complex evidence is needed to show deception and intention – and often the elderly or vulnerable victims are unable or unwilling to give evidence. TSDs have problems in identifying and tracing bogus traders;
- **the need for good cooperation/coordination between agencies.** Good cooperation between police and TSDs is crucial if bogus trading is to be tackled effectively. Other local, regional and sectoral agencies can also contribute. This needs to be backed up and promoted by joined-up working within Government; and
- **strengthening legislation.** While co-operation and best practice are important for tackling bogus trading, on their own they are not enough. There are good examples of such cooperation, but even here the numbers of convictions are modest. We consider that underlying legal powers need to be strengthened.

1.35 We have consequently **recommended that Government should pursue legislative options for tackling bogus traders. In particular:**²³

²⁰ OFT 704: 4 March 2004

²¹ Taken from trading standards and police figures that have been collected in certain areas only and on varying definitions, and then grossing up. Figure revised from 16,000 in the position paper.

²² Theft Act 1968, section 15 (parallel legislation applies in Northern Ireland, different legislation applies in Scotland).

²³ These recommendations have been updated slightly to reflect developments.

- that it should proceed with legislation on the proposed new fraud offence, based on the draft Bill set out in Law Commission report 276²⁴ and the Home Office's planned consultation paper;²⁵
- that it should proceed with legislation on a fraudulent trading offence for individuals, as proposed in Law Commission report 277²⁶, subject to consideration of responses received on this in the Home Office's planned consultation;
- that DTI consultation we have proposed on a possible ban (and potential exceptions) on work and/or payment within seven days of a cold call should explore whether it could also be made an effective means of dealing with bogus traders; and
- that DTI should consult on the option of a ban on cold calling for property maintenance/repairs and on specific issues and alternatives involved in such a possible ban.

1.36 We also want to see cooperation between police, TSDs and other agencies continue to grow, in order to increase effectiveness against bogus trading and other doorstep crime. This needs to be supported by a joined-up approach within Government, and a limited period of strong impetus and direction. We therefore welcome the suggestion within Government of a cross-Departmental Ministerial Group to take matters forward.²⁷

1.37 Finally we make a specific proposal to address the lack of reliable figures on bogus trader incidents. **We recommend that DTI should introduce**

²⁴ Law Commission report on Fraud (report 276). (Law Commission recommendations apply to England and Wales. It would be for separate consideration whether parallel reforms were introduced for Northern Ireland. Different arrangements apply in Scotland).

²⁵ A consultation document is expected shortly.

²⁶ Law Commission report on Effective Prosecution of Multiple Offending (report 277). (Law Commission recommendations apply to England and Wales. It would be for separate consideration whether parallel reforms were introduced for Northern Ireland. Different arrangements apply in Scotland).

²⁷ Gerry Sutcliffe, Parliamentary Under-Secretary of State for Trade and Industry: Westminster Hall Adjournment Debate, 3 March 2004.

codes for bogus trading in the coding system for its new Consumer Direct telephone helpline service, which would then become part of the system also used by TSDs and the OFT.

2 INTRODUCTION

- 2.1. This market study, which was launched on 12 November, 2002, has been carried out under section 2 of the Fair Trading Act 1973 and, since it came into force, similar duties contained in section 5 of the Enterprise Act 2002 (EA02).
- 2.2. The study was undertaken following a super-complaint from Citizens Advice²⁸. A super-complaint is a fast-track procedure allowing a designated consumer body to make a complaint to the Office of Fair Trading (OFT) or a specified sectoral regulator. A super-complaint focuses on areas where market structures or practices are suspected to be working against the interests of consumers. The OFT is obliged to publish a response to a super-complaint within 90 days of receiving it.²⁹
- 2.3. In its super-complaint Citizens Advice highlighted what it saw as five main problems in doorstep selling transactions:
- lack of awareness about consumer rights;
 - consumers being misled and subjected to high pressure sales techniques;
 - cancellation rights and cooling off periods being limited to certain types of doorstep sales which can confuse consumers;
 - cancellation rights being ignored by salespersons; and
 - the goods sold to consumers often being unsuitable for their needs or do not meet their requirements.
- 2.4. In our response we agreed there could be problems but the extent of them was unclear. However, we noted that the evidence provided suggested that many customers of doorstep sellers that experienced problems were

²⁸ Formerly known as the National Association of Citizens Advice Bureaux (NACAB)

²⁹ Whilst the duty to accept super-complaints under the EA02 did not come into force until June 2003 the OFT had agreed to informally consider super-complaints prior to this as if the formal duty was in place.

vulnerable (for example housebound or disabled). We therefore decided to look at doorstep selling in greater detail.³⁰ This report sets out the result and findings of that further investigation, as well as making recommendations to address the various issues that raise concern that we have identified.

2.5. Our investigation has sought to examine:

- the nature and structure of doorstep selling practices;
- what goods and services are commonly sold in the home;
- problems experienced by consumers buying this way; and
- why certain problems are associated with doorstep sales of some products and services but not others.

2.6. We commissioned:

- a consumer omnibus survey to ask some preliminary questions to inform the planning of further research;
- two further consumer surveys, one to provide a detailed assessment of the consumer's experience of purchasing goods and services, the other to examine consumers' knowledge of their rights when shopping at home or buying at the doorstep;
- two pieces of research into prices and price variation for specific products sold through doorstep selling;
- research by LACORS on enforcement activity with regard to doorstep and bogus trading;³¹
- forty-two face-to-face interviews with a random set of salespeople who are or who have in the past sold door-to-door and in the home; and

³⁰ The full text of our formal response can be found on our website at www.offt.gov.uk

- a report by a psychologist to consider the following questions:
 - whether the combination of home environment and face-to face interaction with a salesperson creates a setting that is intrinsically different from other selling channels;
 - to consider what techniques salespeople employ; and
 - how consumers respond to these influencing techniques.

2.7. In addition we also:

- carried out a 'snapshot' analysis of doorstep selling complaints from a selection of Trading Standards Departments (TSDs) to assist in gauging the size of any problems;
- carried out an analysis of Citizens Advice Social Policy report forms;
- gathered data from local police and TSD initiatives on bogus trading and distraction burglary;
- surveyed other European countries to see how they protect consumers against similar practices;
- consulted with individual suppliers and trade organisations within various market sectors that sell products on the doorstep and in the home; and
- spoke to consumer groups and other government and regulatory bodies with an interest in this sector and the devolved administrations in Northern Ireland, Scotland and Wales.

2.8. The following chapters provide background on the various market sectors and issues, the problems we found and proposed remedies, where we think they are appropriate. Chapter 3 sets out the broad picture, defining doorstep selling, looking at the extent to which firms use doorstep selling,

³¹ Local Authorities Coordinators of Regulatory Services

identifying the broad problems highlighted and existing protection. Chapters 4 and 5 examine the problems we have identified in more detail with regard to particular product value sectors and Chapter 6 looks at the issue we have identified as 'bogus trading'. We make recommendations in Chapter's 5 and 6, but for completeness, they are listed together at the end of the report. We have also included a glossary and list of acronyms, together with our references.

- 2.9. Details of our methodology, research and relevant legislation can be found in the annexes to this report. The studies we commissioned are the responsibility of the authors concerned and any views expressed in them are those of the authors and not necessarily of the OFT. The views of the OFT are expressed in this report, which has drawn on those studies.

3 THE PRACTICE OF DOORSTEP SELLING

Summary

- 3.1 We have defined doorstep selling as the sale of goods or services where the contract is concluded face to face in the consumer's home or on the doorstep. Doorstep selling is a sales channel covering a wide set of products ranging from some costing as little as £1 or less to some costing thousands of pounds. We have considered doorstep sales across three value sectors: **low** (products less than £35), **medium** (products valued between £35 and £500) and **high** (products above £500). Given the wide range of products, we have, for practical purposes, focussed on certain key products to aid our research but our consideration has been of the sales channel as a whole. We have conservatively valued the annual cost of key products sold via doorstep selling at £2.4 billion.
- 3.2 Doorstep selling takes place in two ways: **solicited**, where the consumer actively initiates the visit by the salesperson, for example by specifically requesting a visit in response to an advert or mail shot; and **unsolicited**, where the visit does not take place at the express request of the consumer, for example where a salesperson makes a cold call.
- 3.3 There are a number of advantages to doorstep selling (for example where a product needs to be individually tailored to the home) and for some high value products it is the easiest or only way to buy. However many consumers have negative attitudes towards it, particularly to cold calling. There are a large number of complaints relating to doorstep selling, many of which relate to pressure selling or mis-selling. The majority of complaints relate to home improvement services.
- 3.4 The home is a unique selling environment in which the consumer may effectively be a captive audience for a salesperson. We have identified a range of psychological influencing techniques, commonly employed, which can be highly effective in inducing the consumer to buy. Many salespersons, particularly those selling high value products, are well trained in these techniques.

- 3.5 Added to this, existing consumer protection (a seven day cooling off period) does not apply to all consumers buying through doorstep selling – it only applies to those who purchase following a cold call. We also found that consumers were generally unaware of whether, or when, these additional rights applied.

SECTION 1: THE REMIT OF THE STUDY

What is doorstep selling?

- 3.6 For the purposes of this study we have defined doorstep selling as the sale of goods or services where the contract is concluded face to face in the consumer's home or on the doorstep.³² Throughout this report the term 'doorstep selling' is used for sales made on the doorstep and in the home.³³ It is a selling channel and we have focussed on this rather than individual products. Where we have looked at specific products we have focussed on the biggest selling by value or those which are targeted at more vulnerable consumers. This has enabled us to better understand and assess the scale and importance of doorstep selling and the broad applicability of our conclusions and recommendations. We have also looked at the effect of particular sales practices and techniques and their impact on the consumer in their home environment as this is how doorstep sales are made.

³² For reasons covered more fully later, due to the nature and potential detriment of pressure selling we have generally considered doorstep sales that follow a single visit.

³³ It should be noted that our definition of doorstep selling is narrower than that given in the Doorstep Selling Regulations which also applies to contracts which are concluded during an excursion organised by a trader away from his business premises (for example the sale of timeshares in a hotel), or during an unsolicited visit by a trader to the consumer's place of work. This is because we wanted to focus on the effect of particular sales practices as they impact on the consumer in their home environment. For reasons discussed later we consider that consumers are more vulnerable to sales influencing techniques in a home environment than elsewhere.

Table 3.1: Some examples of what does and does not constitute doorstep selling

Doorstep selling	Not doorstep selling
<p>A kitchen salesperson calls. He/she explains the product to the consumer, prepares a quotation on site and gives it to the consumer for acceptance as a part of the visit.</p> <p>The contract is negotiated face to face in the consumer's home.</p>	<p>A consumer buys kitchen units from a showroom and arranges separately for a builder to install them. The builder makes a site visit, prepares an estimate or quotation off site and sends it separately for the consumer to consider.</p>
<p>A canvasser for an electricity supply company cold calls and signs up the consumer to a new supplier.</p> <p>The contract is negotiated face to face in the consumer's home.</p>	<p>A supplier visits with a view to installing a mobility aid. The aid is installed but the price is negotiated and paid for by a health authority, local authority or a charity. There is no contract with the consumer.</p>

'Bogus' trading

- 3.7 We also found that some complaints made under the general heading of 'doorstep selling' fall so far outside normal business practice that they cannot be considered merely an 'unfair' trading practice. We describe perpetrators of such behaviour as 'bogus traders'. Bogus trading occurs where consumers are cold called and tricked or pressurised into paying large sums often for shoddy goods and services. A distinguishing feature of bogus trading is the high degree of deception or intimidation involved. Bogus trading is considered in chapter six.

SECTION 2: THE SCALE AND VALUE OF DOORSTEP SELLING

The doorstep sales channel

3.8 Doorstep selling covers a wide range of products from household cleaning materials costing as little as one pound or less to replacement double-glazing costing many thousands of pounds. Given the range of products sold, to assist our research and information gathering, we have considered doorstep sales in three categories by value of transaction:

- **Low value purchases** – goods or services under £35³⁴ per transaction;
- **Mid-value purchases** – products or services valued between £35 and £500;
- **High value purchases** – purchases in excess of £500.

The scope of products considered

3.9 For purely practical reasons we assessed whether there were products sold via doorstep selling that merited particular focus to aid our understanding of the selling channel. These products would be ones that could potentially generate the greatest detriment as a result of being sold via doorstep selling. In making this assessment we considered: the scale of possible financial detriment; whether vulnerable consumers were particularly at risk and the importance of doorstep selling as a distribution channel for the product/service.

3.10 We analysed complaints received by Trading Standards Departments (TSDs) and looked at those products mentioned in the original super-complaint from Citizens Advice. We found that, whilst there were some common elements, most products fell into one of two broad categories:³⁵

³⁴ This £35 lower limit was chosen because the Doorstep Selling Regulations do not apply to goods or services costing less than £35.

³⁵ See Annex S for the full analysis

Products for which there are few complaints and limited detriment to consumers

Products for which complaints do occur and there may be significant detriment to consumers

Common features for these products include:

- they are generally low value purchases;
- they are often repeat purchases;
- the products are generic;
- prices seem to be transparent (price lists and catalogues exist);
- competing products are readily available in shops;
- consumers are in no doubt about the nature of the sales visit.

Common features for these products include:

- they are generally high value purchases;
 - they are infrequent purchases;
 - the products have to be custom made (or are claimed to be);
 - there is the need for a home visit to determine/finalise specification and quote a price;
 - there is pressure to conclude the contract as soon as a price has been quoted so there is no opportunity to reflect or consider alternatives;
 - consumers appear to be misled about the nature of the visit (for example they think they are getting a demonstration or are being asked to help with a survey).
-

3.11 Based on the above factors, and the nature of complaints analysed, we identified the following products as those where doorstep selling had the potential to cause high detriment:

- home improvements and in particular double glazing and conservatories; and
- assistive products for consumers with disabilities.

- 3.12 We also considered looking at doorstep credit, otherwise termed weekly collected credit, but concluded that this topic raised many issues wider than selling methods. This issue is being covered by the DTI's review (in which OFT has been actively participating) of the Consumer Credit Act 1974 and subsequent White Paper.³⁶ We are also aware that a super-complaint on doorstep credit will shortly be made to us by the National Consumer Council which is likely to cover issues wider than the selling practices addressed in this report. We have therefore excluded it from this study.
- 3.13 We have used those products we have focussed on to give us a broad understanding of the way the doorstep sales channel works. Any recommendations we make are not focussed solely on the sale of those particular products – our conclusions and recommendations are more general and apply to the selling channel as a whole.

The value of doorstep selling

- 3.14 We conservatively estimate that the overall value of those goods and services identified, sold through doorstep selling, is at least £2.4 billion each year.³⁷ This figure does not include energy sales which are calculated as savings made to the consumer by switching suppliers rather than by products sold. For these, accounts switched as a result of doorstep canvassing are valued at £1.2 billion annually and generate savings of £85 million for consumers.

³⁶ Fair, Clear and Competitive: the Consumer Credit Market in the 21st Century, Cm 6040, December 2003, and DTI's Establishing a Transparent Market: a consultation on proposals for regulations

³⁷ It is difficult to quantify the value of doorstep selling precisely since available data tends to concentrate on measuring total sales of a product rather than the method by which it was sold. A detailed description of the methods and data sources used to arrive at this figure is at Annexe B.

Table 3.2: The estimated values of doorstep selling and the importance of the doorstep selling channel for key product types

Product groups	Doorstep sales (£ million)	Importance of doorstep selling in retail distribution
Low value products (under £35) and Mid value products (over £35 and up to £500)	200	Low
High value products (over £500)		
Home improvements Including	In excess of 2000	
Double glazing	1,600	90% of sales
Conservatories	250	60% of sales
Mobility products Including	In excess of 80	
stair lifts	45	100%
scooters and buggies	30	high
digital hearing aids	120	high
All products sold face to face on the doorstep or in the home.	In excess of 2,400	

SECTION 3: CHARACTERISTICS OF DOORSTEP SELLING

Solicited and unsolicited sales

3.15 Doorstep selling can take place in two ways:

- **solicited**, where the consumer actively initiates the visit by the salesperson, for example by specifically requesting a visit in response to an advert or mail shot;
- **unsolicited**, where the visit does not take place at the express request of the consumer, for example where a salesperson makes a cold call.

3.16 The legislative protection for consumers under each selling method differs. The Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 (the Doorstep Selling Regulations) provide a seven day cooling off period for contracts made through doorstep selling where the total sum payable for goods and services under the contract exceeds £35 in value, but only if the visit was unsolicited.³⁸

3.17 This distinction is partly based on the notion that, if consumers are not prepared for the visit they will be more susceptible to pressure sales techniques. It also acknowledges the fact that a consumer who is surprised by a visit from a trader has not had the opportunity to shop around and cannot judge whether the trader is offering a good deal. A cooling-off period allows consumers to reflect on their purchase after the salesperson has left. For solicited sales the presumption is that the consumer, having invited the salesperson, is better prepared and will not be susceptible to sales pressure. In our survey of professional salespersons, sellers considered they had a better chance of making a

³⁸ The legal definition of an unsolicited visit would also apply to a second visit by a trader, at the invitation of a consumer, which follows an unsolicited visit during which the trader indicates, either expressly or by implication, that he is willing to make a second visit. The Doorstep Selling Regulations can also apply to contracts made at a visit requested by the consumer but where the goods or services to which the contract

sale on a solicited visit (which will generate a sale once in every two to three visits) than by cold calling (which generates a sale once in every 10 to 12 visits).³⁹

3.18 This study assesses whether consumers, while enjoying the benefits of doorstep selling, are also suitably protected against its potential detriments. In particular, we have examined whether:

- the current legal protection afforded to consumers effectively addresses the areas where problems occur;
- consumers are aware of their legal rights;
- consumers are sufficiently equipped to make good choices in the context of doorstep selling; and
- consumers are adequately protected against exploitation from bogus traders.

Benefits of doorstep selling

3.20 The majority of consumers who **had** bought through this channel were generally positive about the experience. Although some may have experienced problems along the way more than 70 per cent of consumers were happy overall with the sales process and products purchased. It is argued that doorstep selling can have a number of advantages for consumers:

- it avoids the need to travel. This is particularly useful if the product is a specialist one and retail outlets are scarce or if the consumer has mobility problems;
- if the product is complex and requires a time consuming discussion with the supplier, there may be more opportunity for this at home;

relates are not the same as those for which the consumer requested the visit. See Annexe C for a fuller description of the Doorstep Selling Regulations.

³⁹ Annexe G: It should be noted that this is derived from a small sample of professional salespersons.

- there may potentially be scope for a home demonstration although the appropriateness of this will depend upon the product; and
- cold-calling may be a means of addressing consumer inertia, by actively presenting consumers with new options that may be to their advantage.⁴⁰

3.20 Balanced against these benefits are the generally negative views held by many consumers about this selling channel which are outlined below.

Consumers' perceptions of doorstep selling

3.21 We surveyed consumers to assess how important doorstep selling was to them as a means of acquiring products and services.⁴¹

3.22 Many consumers have negative attitudes towards doorstep selling and are cautious about buying in this way. Only 39 per cent of consumers surveyed reported ever having purchased via doorstep selling. The remaining 61 per cent revealed a general wariness about buying in this way based, partly on a dislike of certain features of doorstep selling, such as a lack of trust of salespersons, and partly on a preference for ordinary retail outlets.

3.23 The general attitudes to doorstep selling of this 61 per cent of consumers showed strong agreement with a range of views and opinions including the following statements:

- this type of selling should be more tightly regulated by the government (87 per cent of consumers agreed);
- the pressure to buy is much higher in this type of setting than in a shop (85 per cent agreed);
- salespeople should not be allowed to make unsolicited calls at someone's house (80 per cent agreed);

⁴⁰ This is argued to be particularly the case for energy sales.

- this type of selling is an invasion of someone's privacy (79 per cent agreed); and
- such salespeople prey on the most vulnerable members of society (79 per cent agreed).

3.24 Agreement with positive views about doorstep selling was much lower. Twenty-seven per cent of consumers asked felt that doorstep selling was an 'acceptable form of selling' and only 12 per cent felt that buying products or services on the doorstep or in the home gave them a good deal.

3.25 We also asked those consumers who had purchased through doorstep selling their reasons for doing so. Table 3.3 sets these out for all three product sectors.

Table 3.3: Importance of reasons for buying in-home or at the doorstep on recent occasions by product value⁴²

Reasons	Low	Medium	High	Overall
	%	%	%	%
Convenience	73	70	76	73
Good value for money	61	70	70	67
Features that the purchasers liked	55	66	74	64
Sales person's expertise	34	50	72	49
Sales person effective in selling product	33	53	58	47
Necessity	22	29	46	30
Few or no alternative ways of purchasing	25	26	36	28
Bought against purchaser wishes	12	12	8	11
Availability of credit	7	11	15	10

3.26 For some consumers buying in-home is a necessity. For example they may be housebound, they may need to purchase a specific disability aid (such

⁴¹ Annexe L

as a stair-lift) or need to make building repairs. Thirty per cent of in-home purchases were made for this reason. Other consumers value the convenience and many (67 per cent of this group) thought the purchase represented good value for money.

3.27 However, even amongst this group of consumers not all the reasons given for buying were positive. Some reflected a lack of alternative sales channels for purchasing the product and some felt they had been sold the product against their wishes.

Complaints about doorstep selling

3.28 Our study found that there is a lack of coordinated data collection for doorstep selling complaints, both in the OFT and in enforcement bodies locally and nationwide. This is simply the result of existing complaint recording systems having no specified data in relation to this sales channel. Existing complaints information reveals the type of product and the type of complaint but does not automatically record doorstep selling problems. The launch of Consumer Direct⁴³ will greatly increase the amount of data collected about complaints and will record the sales channel, including doorstep selling.

3.29 Despite this lack of direct data we sought to gauge the types of complaint, and those affected, by doorstep selling. We did this by analysing a body of evidence provided by Citizens Advice for 2001 to 2002 together with a snap-shot of complaints recorded by a number of TSDs over a period of 12 months (2002). Full details of this analysis can be found at annexes S and T. Based on this information we established the following key facts about complaints.

⁴² Annexe L

⁴³ Consumer Direct will be the first point of call for consumers, providing first tier advice on a range of consumer matters, including advice before shopping, information on consumer rights and practical guidance on individual problems and how to gain redress. The aim is to give people the knowledge, tools and confidence to be able to resolve matters themselves. Further information can be found at <http://www.dti.gov.uk/ccp/cdinfo/index.htm>.

3.30 From our Snapshot analysis in co-operation with TSDs:

- it can be estimated that there are at least 15,500 complaints about doorstep selling made annually to TSDs;⁴⁴
- the number of complaints made about doorstep selling is high in relation to the amount of money spent on these products - particularly for high value products and services;⁴⁵
- a substantial proportion of complaints (44 per cent) were generated by home maintenance, improvements, repairs and double glazing sales; and
- issues relating to the selling techniques were the main cause for complaint in 59 per cent of cases.

3.31 Among the more serious cases provided to us by CA in the form of social policy reports (and recognising that these results may not apply more broadly):

- a substantial proportion of complainants were vulnerable consumers such as disabled (23 per cent) or older people (49 per cent);
- there are a number of common features to sales transactions that can best be described as 'dubious sales practice'. These include high pressure selling (63 per cent of complaints), mis-selling (48 per cent) and selling without any regard to customers' ability to pay (48 per cent); and
- about 20 per cent of these serious complaints involved solicited sales visits, though this level may not apply across consumer complaints more broadly.

⁴⁴ This is calculated by grossing up the number of complaints in the snapshot survey to a national level. This excludes complaints about energy sales.

⁴⁵ Doorstep selling complaints amount to 1.9 per cent of complaints received by TSDs but the value of doorstep sales annually amounts to 0.4 per cent of domestic household expenditure. Annexe S

SECTION 4: THE SALES PROCESS

3.32 To gain a better understanding of the sales process we looked at the environment in which sales took place, how products are sold and the type of person that sells via the doorstep. To do this we:

- surveyed doorstep salespersons; and
- commissioned an academic psychologist to consider how doorstep selling affects the selling tactics of salespersons and whether this might make consumers more susceptible to purchasing goods that they either do not want or that are inappropriate.

3.33 Full details of these studies can be found at Annexes G and F.

The home as a sales environment

3.34 The home has a special significance for people, and purchasing in the home represents a different experience from doing so, for example, in a shop. Consumers can enter or leave shops as they wish, the transaction is more impersonal and, if they are unhappy with the way a product is being sold to them, they can walk away with relative ease. The home is a very different environment. Our academic study identified a range of psychological influencing techniques which are commonly employed by salespersons and which can be highly effective in inducing the consumer to buy. In the home the consumer is effectively a captive audience for the salesperson to practise those selling techniques on. The home can also provide a salesperson with indicators of a consumer's personality that can be capitalised upon in applying those techniques.

3.35 In our survey of consumers' perceptions, 34 per cent of those consumers who purchased through doorstep selling felt under pressure when buying. About 85 per cent of those consumers who would not purchase through doorstep selling felt that buying at home involves more pressure than buying in other settings.⁴⁶

⁴⁶ Annexe F

3.36 Given the above, and the findings of our academic study, we consider that the combination of the home environment and face-to face interaction with a sales person creates a setting that is intrinsically different from other selling situations. Having established this we next consider the sales process - sellers and selling techniques - in more detail.

Doorstep and in-home salespersons

3.37 For 'cold called' sales the first point of contact for consumers may be a canvasser, either in person or on the phone. For low and medium value doorstep sales the canvassing and sales function is normally combined. Canvassers for high value products will make an appointment with the consumer for a salesperson to call. The majority of these latter appointments, for purely practical reasons, will take place within the home.

3.38 Using our Salespersons Survey we have divided salespersons into five broad categories which tend to fit into the product value sectors already defined:⁴⁷

- **the part-time worker/shrewd networker** – sells low value goods generally working part time and close to where they live. They have little or no formal training in sales techniques. Sales leads are generated by building up customer networks, leaving catalogues on doorsteps or through following up on leads provided by the product brand's head office. Most sales are derived from regular repeat business. Sometimes these salespersons will decide to work full-time and create a bigger business by getting others to work for them. These 'shrewd networkers' tend to build up a network of contacts and helpers in order to cover a larger area;
- **the professional doorknocker** – offers a range of products in the low to medium value range. Examples include frozen fish and educational products. Energy sellers also operate in this way. Some basic training on selling techniques is usually given;

⁴⁷ Annexe G

- **small business owner/tradesman** - the small business owner usually sells medium value goods or services such as carpet cleaning, lawn care or window cleaning. Tradesman generally tend to sell goods and services of a higher value and include builders, roofers, garden landscapers and driveway specialists. It is most likely that they will have learned a profession or have a specialist skill which requires them to sell as a necessary part of the job to generate business. Both operate on a local basis and aim to build up a business based on recommendation and reputation;
- **the professional salesperson** – typically sells high value products for a commission. They are likely to be working for a regional or national company with a strong brand image rather than a family-run business. This type of salesperson may make anything from £300-£3000 for an individual sale. Professional salespersons tend to be trained in advanced selling techniques, product knowledge and company specific procedures. Large advertising campaigns, tele-canvassing and door-to-door canvassers (whose sole role is to generate a lead for the salesperson to follow up) generate the majority of their leads; and
- **the 'bogus trader'** – such persons were not interviewed in our survey and are clearly not recognised salespersons but we include them here for completeness.

Influencing techniques used by salespersons

3.39 The academic study we commissioned identified six psychological influence principles commonly used by salespersons when selling in the home.⁴⁸ These are:

- **Reciprocity** – where the consumer has a feeling of indebtedness to the salesperson. It can be triggered by using gifts and concessions and can assist the salesperson to transform what should be purely a business transaction into a visit imitating that of a friend. This can be a significant aspect of the sales process. Examples include:

⁴⁸ For full details of the study see Annexe F

- ' Hello, how are you Mr _____? My name is _____ from (company), here's my ID card so that you'll know that it's really me. And in case you are wondering why I brought you this gift, it is because I am from the old school. My parents always told me that it wasn't polite to go to someone's home empty-handed. So that's why I brought you the gift, I hope you will enjoy it';
- 'The whole idea is then to make a phone call to establish whether the product is still there or not. So, there's an urgency ...and it's the way in which you do that ...if you do a favour for me, I'll do one for you.'(Interviewer) 'Then you are talking to your manager on the phone, are you?' (Salesman)' yes, and he's just blurring on about any old stuff'.
- **Consistency and commitment** - this is being pressured by the sales process into feeling committed to honour previous statements. By using personal information found in the buyer's home, the salesperson can get the consumer to agree to statements that are consistent with buying the product. Practising this technique can lead to sales visits lasting several hours.
 - 'By asking the questions as you go ...they shut the doors ... so when you are at the bottom asking pointed questions like 'Are you going to have one and when do you want it fitted? They can't get out , they haven't left themselves an escape route and you can see them squirming.'
- **Scarcity and anticipated regret** – this is generating a sense of urgency and/or loss if a purchase is not made. This hinders the consumers' ability to gauge the real need for the product/service. This strategy was used frequently by salespersons to pressure consumers into buying a products (36 per cent of salespeople interviewed admitted using it).
 - '... ring them [the company] up, and surprise, surprise, the (product) is there. And you say right hold that, I'll reserve it for the next ten minutes and I'll get back to you...I get off the phone. I build it up again and I say right the ... is there, so I put

the urgency, its there, I've reserved it, but this is a one off, once it's gone, it's gone. And when it goes, the price goes with it.'

- **Social proof** – this is also used in advertising and selling through other channels and is not specific to doorstep selling. It is used in conjunction with other influence principles and seeks to make the consumer feel they are like everyone else who purchased this product or that they will be as happy as those who purchased the product.
 - 'I'll let them speak to customers. I'll phone up the customers obviously and ask can somebody have a word with you, they're interested in having some work done similar to yourselves, and they get on with it.'

- **Liking and similarity** – this technique uses the home as a method of gaining information about the consumers' identity, likes and dislikes. The salesperson aims to identify themselves with the consumer, by emphasising their similarities and thereby gaining their trust. Seventy-two per cent of those interviewed viewed this technique as an important factor in the sales process.⁴⁹
 - 'The rules for selling are simple, your challenge is not just to use them but to master them...Build Friendships. People buy from friends, not a sales person, if you both like golf or have children, these are things and issues that will bring you closer...Gather personal information, then use it.'

- **Authority and expert endorsement** – works on the premise that the consumer defers to those in authority or those who have expert knowledge. As with the 'Social Proof' factor this is used in many sales settings but can be more effective in the home:
 - Canvasser: ' We carry out a rest assessment with you to find out about your sleeping patterns, it's all in accordance with the sleep council' [suggested response to a typical objection]. Consumer: I don't think we need a new product, (or something similar).

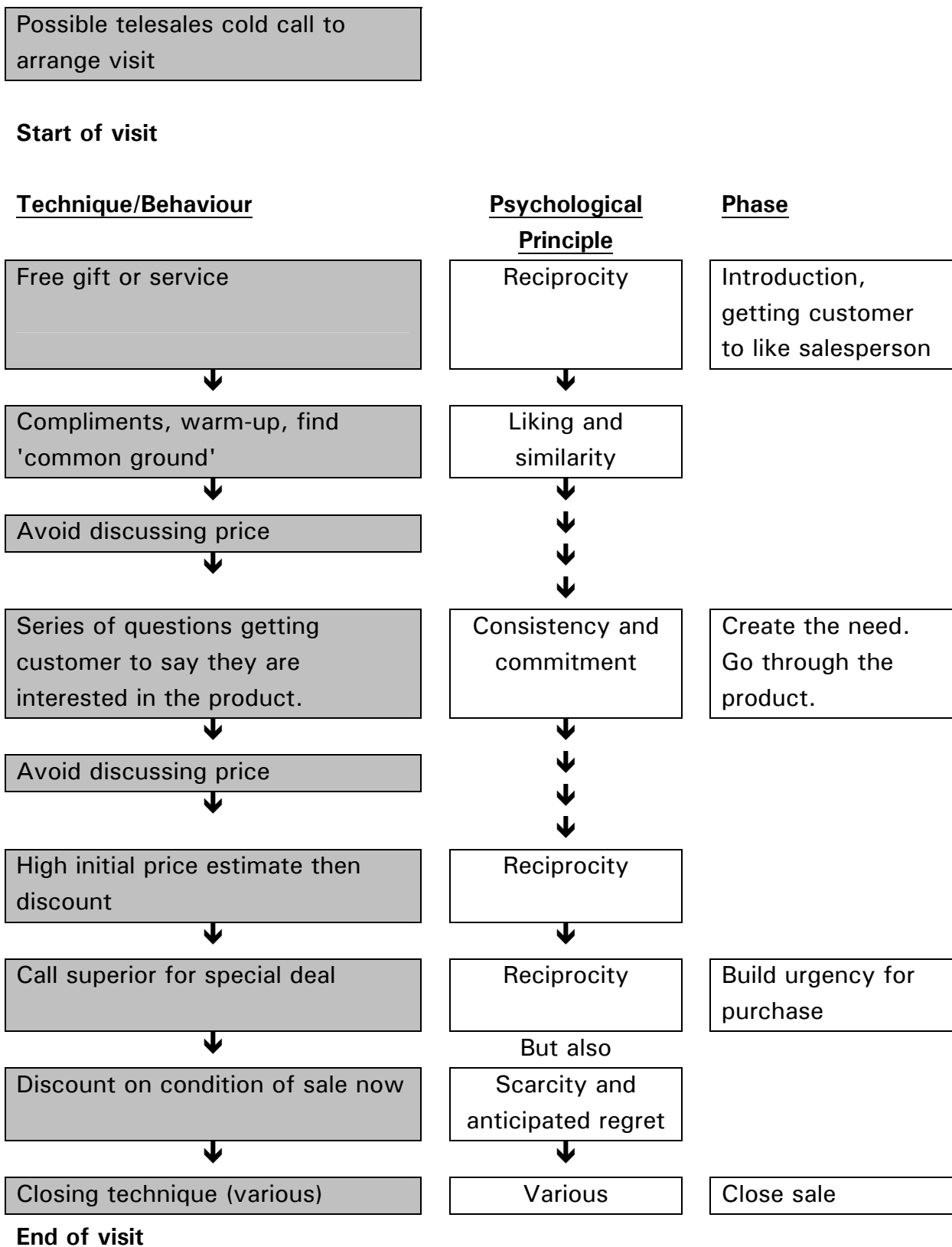
⁴⁹ Annexe F

Canvasser: Other customers often think the same Mrs./Mr. X but there is no harm in us doing our test and its within the 'sleep council's criteria'.

3.40 Figure 3.1 illustrates how these principles can be applied throughout a particular sales sequence. The stages indicated under the 'phase' columns concur with our analysis of the common ingredients of the sales process that came out of our discussions with those salespersons we interviewed.⁵⁰ The phase represents at which stage in the buying process the principles are used.

⁵⁰ Annexe G

Fig 3.1: Timeline of sales techniques, psychological principle and phase of sale⁵¹



⁵¹ Annexe F

3.41 It is this combination of sales techniques, rather than one in isolation, that has a particularly powerful, persuasive impact on the consumer.⁵² Several strands of evidence from our consumer survey suggest that such techniques are frequently employed. The conclusions of our psychological study, which found these techniques to be very effective, strongly suggests that consumers are often as susceptible to the influencing techniques of a skilled salesperson whether they have invited him or her into their home or whether they have been cold-called.

SECTION 5: CONSUMER AWARENESS AND PROTECTION

Consumer awareness of rights

3.42 We surveyed consumers to find out how aware they were of their rights when buying via doorstep selling. The results are presented in full in Annexe K.

3.43 As outlined above, for doorstep purchases of medium and high value products made following an **unsolicited** visit the Doorstep Selling Regulations entitle the consumer to a seven day cooling off period in which to cancel the contract.⁵³ The same regulations also require that consumers are informed about these rights.

3.44 Consumers surveyed were generally unaware that they may enjoy additional rights when buying in the home. Around half (46 per cent) thought that their rights were exactly the same as when purchasing in ordinary retail premises, and about one-third (34 per cent) thought they had **more** rights when buying in a shop. Only six per cent correctly identified that they had additional rights with regard to doorstep selling.

3.45 When consumers were told that the Doorstep Selling Regulations did provide additional rights in certain circumstances, only seven per cent knew that the main feature of this protection concerned cancellation rights, a cooling off period, or some other equivalent description.

⁵² Annexe L and Annexe F

- 3.46 The survey also showed that consumers had some difficulty in making the distinction between solicited and unsolicited visits in accordance with the legal definition. Most (86 per cent) correctly identified that someone cold calling was an unsolicited visit but on being asked whether a visit arranged following a cold call by telephone would be solicited or unsolicited 66 per cent incorrectly identified it as solicited. A fairly consistent seven to ten per cent of all consumers surveyed indicated they didn't know when a visit was solicited to all of the examples given.
- 3.47 It must be noted that the survey questioned all consumers, many of whom may have had no recent experience with buying products to which the regulations apply. Awareness levels amongst consumers who had recently purchased is likely to be higher (perhaps as a result of their own research or of being told by a salesperson). Nevertheless it is clear that many consumers entering into these transactions are likely to be uninformed of their rights and will be reliant on what they are told by the salesperson, putting themselves in a vulnerable position and potentially open to exploitation.

Existing consumer protection

- 3.48 There are specific regulations relating to doorstep selling and a range of legislation affecting sales and contracts which can, in certain circumstances provide some protection for consumers buying on the doorstep or in the home. Table 3.4 lists the main pieces of legislation together with an indication of the protection it might afford consumers. Fuller details of the legislation are set out at annexe C. We have considered this legislation and its effectiveness with regard to doorstep selling in our overall assessment.
- 3.49 Codes of practice can also provide strong benefits to consumers by providing an effective but lighter touch alternative to statutory regulation. The OFT's Consumer Codes Approvals Scheme supports codes which provide real benefits and protection to consumers and will encourage consumers to identify and select businesses that are signed up to an OFT

⁵³ The Doorstep Selling Regulations do not apply to contracts for goods which in total cost £35 or less.

approved code.⁵⁴ We have considered the extent to which codes of practice provide protection to consumers buying through doorstep selling.

3.50 We are also conscious that negotiations are proceeding in Brussels on a proposed Directive on Unfair Commercial Practices (UCPD). This would introduce, across the EU, a general duty not to trade unfairly. It would create new powers to tackle rogue traders and it should be another contributor to strengthening protection for consumers when implemented in UK law. However, the Directive's requirements on harmonisation would constrain the scope of national legislation. In this report, we have framed our conclusions and recommendations in terms of the existing legislative structure but it should be noted they may need to be taken forward in a different form depending on progress on the UCPD.

Telephone Preference Service (TPS)

3.51 By virtue of regulation 21 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (the 2003 Regulations) the use of a publicly available electronic communications service for the purposes of making unsolicited calls to a person for direct marketing purposes is prohibited where:

- (i) the person has previously notified the caller that such calls should not be made to his telephone number; or
- (ii) the person's telephone number is listed on the register kept under regulation 26 of the 2003 Regulations.

3.52 OFCOM⁵⁵ has a duty to maintain and keep up-to-date a register of the telephone numbers of individuals who have notified them that they do not wish to receive unsolicited calls for direct marketing purposes on that number. This central opt out register is known as the 'Telephone Preference Service'.

⁵⁴ Further details on the OFT's Consumer Codes Approvals Scheme can be found at Annexe D

⁵⁵ The Office of Communications, established by section 1 of the Office of Communications Act 2002

3.54 Whilst the TPS does not directly address the doorstep selling issues considered in this study it does provide consumers with a way of preventing cold telephone calling if they wish.

Table 3.4: Existing consumer legislation providing protection for consumers buying on the doorstep or in the home

Legislation	Protection afforded to consumers buying on the doorstep or in the home
Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987	Gives consumers buying goods or services above £35 a seven day cooling off period in which to cancel the contract if they made the contract following an unsolicited visit.
Sale of Goods Act 1979	Goods sold must be as described, of satisfactory quality and fit for the purpose intended.
Supply of Goods and Services Act 1982 (as amended by the Sale and Supply of Goods Act 1994)	Goods or services supplied must be as described, of satisfactory quality and fit for the purpose intended. The supplier must carry out the service with reasonable care and skill.
Unfair Terms in Consumer Contract Regulations 1999	These apply to contracts made between a consumer and a seller or supplier. An unfair term is one that has not been individually negotiated and causes a significant imbalance in the parties' rights and obligations arising under the contract to the detriment of the consumer.

Continued overleaf

Table 3.4 continued...

Legislation	Protection afforded to consumers buying on the doorstep or in the home
Consumer Credit Act 1974	<ul style="list-style-type: none">• Gives consumers a 5 day cooling off period in which to cancel a regulated credit agreement and any linked transaction such as a contract for goods or services financed by the credit agreement, if the pre-contract negotiations included oral representations made to the consumer in the home.⁵⁶• a consumer credit license is required to carry on a consumer credit or a consumer higher business or an ancillary credit business, which includes credit brokerage.⁵⁷
Enterprise Act 2002	Gives enforcers strengthened powers to obtain court orders against businesses that do not comply with their legal obligations towards consumers. ⁵⁸
Theft Act 1968	Provides that a person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other person of it, is guilty of an offence. A person is also guilty of an offence if by any deception he dishonestly obtains a money transfer for himself or another.

⁵⁶ The five days commence from the day the consumer receives a second copy of the agreement or a separate notification of cancellation rights.

⁵⁷ The OFT is responsible for issuing such licences.

⁵⁸ Part 8 of the Enterprise Act 2002. General enforcers include the OFT and all British Trading Standards Departments.

Conclusion

- 3.55 There are clear benefits to doorstep selling: many consumers value the convenience and for some high value products it is currently the easiest or only way to acquire the product. There are also a large number of complaints relating to doorstep selling, many of which relate to pressure selling or mis-selling.
- 3.56 Psychological influence principles are particularly powerful in doorstep selling due to the special nature of the home environment where they can be very difficult for consumers to resist. We found evidence in several pieces of research that these techniques were commonly employed. Our concern is that they can be used in this environment by unscrupulous salespeople to persuade the consumer to buy, irrespective of whether the consumer wants, needs or can afford the product. The nature of many complaints following doorstep sales suggests that this type of pressure or mis-selling is not uncommon and for high value goods the detriment can clearly be substantial.
- 3.57 Added to this, existing consumer protection (chiefly a seven day cooling off period) does not apply to all consumers buying through doorstep selling – it only applies to those who purchase following a cold call. In any event, many consumers are generally unaware of whether or not they enjoy these additional rights.
- 3.58 The following chapters look at how these findings apply to all product value sectors.

4 LOW AND MEDIUM VALUE PRODUCT SECTORS

Summary

4.1 **Low value products** are those costing less than £35. We have concluded that sales of low value products do not merit any changes in existing consumer protection legislation or other initiatives because:

- products are widely and easily available through other means, there is a broad awareness of their prices in shops, and consequently consumers are by and large able to make an informed choice;
- many suppliers are, for the most part, intent on securing repeated custom through offering convenience and value for money. Those consumers that do make regular repeat purchases are very satisfied with buying at home;
- consumers value the convenience, either of not having to shop for products, or of having someone perform a service they would otherwise have to do themselves (for example window cleaning); and
- since the cost is small the potential detriment through mis-selling is limited.

4.2 Medium value sales are those costing between £35 and £500. Most of these sales are accounted for by gas & electricity sales (i.e. customers switching suppliers). There are a significant number of complaints relating to energy sales mainly relating to mis-selling. This issue has been recognised by the industry regulator, Ofgem, the statutory consumer body, Energywatch, the DTI and the energy suppliers themselves. A number of initiatives have been launched over the last few years to address the problem which, in combination appear to be meeting with some success. Since May 2002 complaints have fallen by more than 70 per cent. Ofgem also intends to amend the licence condition relating to direct sales and marketing activity to give further rights to consumers.

- 4.3 Given this, we do not make any direct recommendations in relation to energy sales.
- 4.4 For products other than energy sales, the complaints made (and types of detriment caused) are similar to those for high value products. We are therefore not making any specific recommendations for medium value products but our general recommendations in chapter 5 apply equally to medium value products.

The value of the low and medium priced products

- 4.5 We estimate that combined sales of low and medium value goods are in excess of £200 million⁵⁹. The products and services covered vary greatly. Section one looks at the issues relating to low value items and section two then focuses on medium value sales.

SECTION 1: THE LOW VALUE PRODUCT SECTOR

- 4.6 This product sector is defined as the trading of goods or services below £35 in value.⁶⁰

The products

- 4.7 The largest category is made up of cleaning products, cosmetics and food sales which together account for more than 70 per cent of all low value doorstep sales. Based on Direct Selling Association data, IRN⁶¹ estimate that doorstep sale of cosmetics alone amounted to £90 million. Other products include: gardening, sales of jewellery, pictures and portraits, CDs, videos, kettles, ironing board covers, gardening products, oven gloves, clothes, wine and furniture and some services such as window cleaning.⁶² All these products are widely and easily available through other sales channels.

⁵⁹ Most, but not all, of these sales are likely to be under £35 in value

⁶⁰ The Doorstep Selling Regulations do not apply to goods below £35.

⁶¹ IRN report for OFT (unpublished), based on various market reports and own research

⁶² Annexe L

Salespeople

- 4.8 Interviews with people who sell these low value products provided some useful supporting insights into their motives and attitudes.⁶³ While the motivation is to sell, many are attracted to this form of sales channel because it can often be undertaken as a part time or 'pin money' activity. This allows flexibility so that the work can be fitted around other demands. For many the clients are known – contact can involve an occasional call to drop off new brochures or a friendly chat at the door. Much of the work is local to the salesperson.
- 4.9 Some salespeople take a more professional and entrepreneurial approach to their selling but, again, sales are generally local. What distinguished this group was their position as managing other agents and therefore reducing the amount of direct involvement and doorstep work that they needed to do.
- 4.10 However, in both cases, our study suggests that these salespeople primarily operate by growing their business through increasing the pool of satisfied customers who purchase, rather than by making large profits from small numbers of transactions.⁶⁴ They are more intent on securing repeated custom.

Customer satisfaction

- 4.11 Whilst many consumers are wary of buying through doorstep selling for those that do (41 per cent) we found 78 per cent were satisfied overall with their low value purchases. Consumers purchasing low value products were also the most frequent purchasers of products on the doorstep (at least once every 4.5 months) and 96 per cent of these repeat purchasers agreed that they appreciate the convenience of purchasing via the doorstep. In general 84 per cent of repeat purchasers were positive about doorstep selling and appeared satisfied with the products and services bought⁶⁵.

⁶³ Annexe G

⁶⁴ Annexe G

⁶⁵ Annexe L

Conclusion: Low value sector

- 4.12 Low value products sold on the doorstep are widely and easily available through other sales channels thus enabling consumers to make an informed choice. Even in cases where consumers are dissatisfied, they appear to be in a position to take their business elsewhere. Given the small size of the sale the potential detriment through mis-selling is limited.
- 4.13 We therefore conclude that the doorstep sales of low value products do not merit any changes in existing consumer protection legislation or other initiatives.

SECTION 2: THE MEDIUM VALUE PRODUCTS SECTOR

- 4.14 We have defined medium value doorstep sales as those products and services valued between £35 and £500. Figure 4.1 shows that the majority (53 per cent) of transactions in this sector of doorstep selling are accounted for by the sale of gas and electricity supply services.⁶⁶ The remaining product categories included in this sector vary considerably. The next largest product category is frozen foods (5 per cent sales) then gardening services (5 per cent sales) and telephone services (4 per cent), with the remainder of sales encompassing an assortment of products – for example, domestic appliances, furniture, pictures and carpets, with no individual product type accounting for more than a few per cent.⁶⁷

⁶⁶ Energy sales involve the consumer switching to an alternative supplier, with a view to making a potential saving. We have included them in the mid-value product sector based on potential savings made on a yearly bill.

⁶⁷ Annexe L

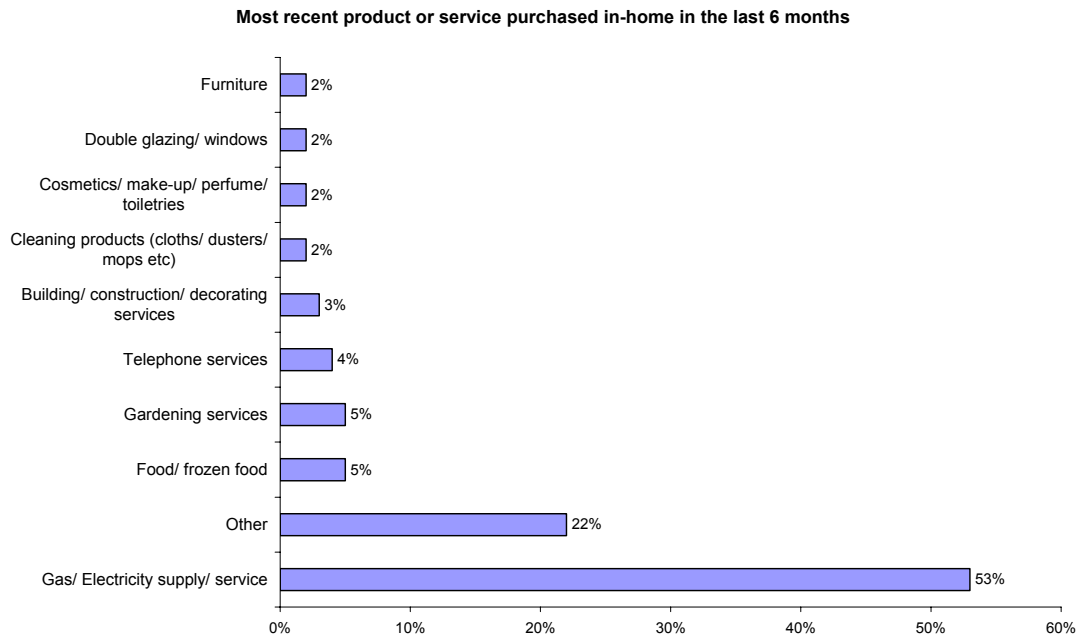


Figure 4.1: most recent product or service purchased in-home in the last 6 months⁶⁸

4.15 We do not have accurate levels of complaints relating to products sold in this medium value sector other than those for energy. This can be attributed to the way that complaints are recorded by product as opposed to product value. However, the complaints made (and types of detriment caused) are similar to those for high value products. We are therefore not making any specific recommendations for medium value products but our general recommendations in chapter 5 apply equally to medium value products.

4.16 There are a significant number of complaints relating to energy sales. We have therefore focused our analysis to these sales.

The energy selling market sector

4.17 Domestic gas and electricity markets were opened for competition in 1998 and 1999 respectively. This has seen a fundamental change in the way these services are supplied to the consumer. Before 1998 consumers received energy supplies from a local supplier with a statutory monopoly.

⁶⁸ Annexe L

Now, consumers can be supplied by one of a number of suppliers – it is their choice who they have a contract with.

The domestic sales of energy

4.18 In 2002 nearly all of the 24.4 million households in Great Britain had mains electricity supplies and more than 80 per cent had mains gas supplies⁶⁹. This amounts in total to around 44 million individual energy supplies – all potential domestic customers for new entrant energy suppliers. Table 4.2 shows the number of consumers that switched suppliers between May 2002 and January 2004. The figures given are for successful transfers and thus take into account cancellations made prior to completion of the transfer. The average figures for 2003 show that ⁷⁰ approximately 608,000 consumers switched supply per month equating to over 7.3 million (about 17 per cent of all supplies) switching each year.⁷¹

⁶⁹ Social Trends 2003 table 2.1 – Please note this figure does not cover Northern Ireland

⁷⁰ Period January 2003-04

⁷¹ A proportion may switch more than once per year.

Month	Year	# of switches
May	2002	804,000
June	2002	813,000
July	2002	770,000
August	2002	670,000
September	2002	793,000
October	2002	693,000
November	2002	641,000
December	2002	690,000
January	2003	664,000
February	2003	665,000
March	2003	632,000
April	2003	421,000
May	2003	563,000
June	2003	526,000
July	2003	552,000
August	2003	558,000
September	2003	636,000
October	2003	603,000
November	2003	725,000
December	2003	819,000
January	2004	645,000

Table 4.2: Monthly switching totals of energy supplies⁷²

4.19 The value of total consumption of gas and electricity in 2002 was £13.4 billion.⁷³ On the basis of the switching levels described above, and the proportion of energy supply switches that arise following a doorstep sale visit (see below) it can be roughly estimated that accounts with an annual value of around £2.2 billion may be switching suppliers annually, of which £1.2 billion are as a result of doorstep canvassing. The annual value generated by switching sales has been calculated on the basis of the average saving achieved.

4.20 The annual value generated by switching sales has been calculated on the basis of the average saving achieved. Ofgem estimates that consumers saved around 7 per cent of their annual bill by switching suppliers. On this

⁷² Source: Ofgem and Energywatch agreed data May 02 – January 2004

⁷³ ONS Consumer Trends Q3 2003 table 04.CN

basis it can be estimated that consumers save around £85m (that is 7 per cent of £1.2 billion) annually by switching suppliers as a result of doorstep selling.

The role of doorstep selling on energy sales

- 4.21 Doorstep selling has been an important factor underlying these high levels of switching. Of those who switched supply, 90 per cent of electricity and 92 per cent of gas customers had been contacted directly by a sales agent.⁷⁴ Sixty-one per cent of sales were made on the doorstep, 25 per cent were telesales and the rest were on the street/in-store promotions⁷⁵. Combining these results, it can be calculated that 55.5 per cent of all energy supply switches may arise following a doorstep sales visit.
- 4.22 Suppliers competing for customers by means of tariff and charging structures must first overcome customer inertia. Some may have been discouraged from switching by reports about billing and similar problems (see below) or consider the cost of switching to be higher than the benefits gained. These costs could include the time and effort to compare the tariffs offered by alternative suppliers, contacting suppliers and arranging transfer.
- 4.23 Consumer inertia means that incumbent suppliers enjoy an advantage over new entrants who cannot rely on customers proactively making contact or responding to an advert to attract business. New entrants, therefore, see great benefits in doorstep selling and rely heavily on it to gain new business. Furthermore because all houses have a gas or electricity supply every address is a potential sale.⁷⁶ This means that unsolicited doorstep selling can be an efficient method of targeting sales. The doorstep selling channel has therefore become increasingly important for energy suppliers competing in the market.

⁷⁴ Research conducted by J D Power in 2002

⁷⁵ Research conducted for Ofgem by MORI "Experience of the Competitive Market", January 2001 and "Attitudes to Price Information Qualitative and Quantitative Research", March 2001

⁷⁶ Relative to selling of something like double glazing or insurance where only a small proportion of the population are likely to spend money on the product in the near future.

The salespeople

4.24 Energy sellers fall in the 'professional doorknocker' category of salespersons identified in chapter 3. Many calls are unsolicited. Salespeople work part or wholly on a commission basis, usually getting a one-off fee for every account signed up. Salespeople are either employed by/contracted to agencies acting as intermediaries to the energy companies or directly by the companies themselves. They tend to be incentivised by a payment per account transferred. We also have anecdotal evidence that salespeople are themselves exposed to fairly hard pressures to achieve particular levels of performance. Combined with the fact that the activities of a salesperson are difficult to monitor in the home, it can be seen that there is a risk of consumers experiencing problems with the sale.⁷⁷ This has resulted in a high volume of complaints.

Consumer attitudes and experiences

- 4.25 A Trading Standards Institute consumer survey carried out in November 2002 found that one in three of those approached by doorstep energy sellers reported having 'a bad experience'. This is supported by research conducted by Ofgem which found that 20 per cent of consumers approached by energy contracts doorstep sellers were 'very dissatisfied' with the experience.
- 4.26 The Ofgem survey in 2002 also reported that 51 per cent of consumers who had recently been contacted by doorstep energy sellers had considered the salesperson 'a nuisance' (26 per cent) or 'quite pushy' (25 per cent).⁷⁸
- 4.27 Research carried out in 2003 on behalf of Trading Standards and Energywatch found that the majority of consumers did not want energy

⁷⁷ Annexe G

⁷⁸ Data reported in Ofgem's consultation on Licence condition 48, 'The regulation of gas and electricity sales and marketing'. Research conducted in the summer of 2002 by Accent Marketing and Research. 200 consumers from England, Scotland and Wales who has experiences direct selling within the previous four months were asked about their attitudes and experiences.

sellers to make unsolicited visits.⁷⁹ It should be noted that this contrasts sharply with Ofgem's survey results, which found that only 10 per cent of respondents thought that abandoning the direct sales approach would be a positive step.

Complaints

4.28 Table 4.3 shows complaints received by Energywatch between May 2002 and January 2004. Over 14,700 energy complaints were received regarding doorstep selling during this period. It should be noted that there is a sharp, downward trend in complaints over this period. The actual number of complaints decreased by more than 70 per cent - from 1.69 to 0.49 complaints per thousand transfers.⁸⁰

4.29 Complaints fall into two key areas:

- mis-selling (including fraudulent activity) which generated the largest volume of complaints; and
- difficulties with cancelling a contract following a doorstep sales visit.

⁷⁹ Ofgem's Consultation: "The Regulation of gas and electricity sales and marketing 2003".

⁸⁰ It should be noted that there are no seasonal factors affecting this fall but that it has taken place against a reduced level of marketing activity

	2002	2002	2002/03	2003	2003	2003	2003/04
Summary	May- July	Aug- Oct	Nov-Jan	Feb-Apr	May-Jul	Aug- Oct	Nov-Jan
Complaints	3961	2833	2629	1676	1441	1183	1044
Number of complaints per thousand transfers	1.69	1.34	1.35	1.00	0.92	0.69	0.49

Table 4.3: Doorstep selling quarterly complaints for the supply of fuel⁸¹

Mis-selling & fraudulent activity

4.30 The main consumer survey conducted by OFT and reported in full in Annex L, was necessarily broad. Consequently results specific to the issue of switching energy suppliers are based on small sample sizes. In this and the following section results draw on research and surveys specific to this sector conducted by Ofgem, NACAB and others as indicated in the footnotes, rather than OFT's own consumer survey.

4.31 20 per cent of all complaints on the sale of gas and electricity reported to Citizens Advice concerned poor sales practices, mainly high pressure selling and mis-selling.⁸² Research conducted by Ofgem in 2002 found evidence of gross mis-selling.⁸³ Complaints made to both OFT and Citizens Advice cover the following:⁸⁴

⁸¹ Source: Energywatch May 02 – January 2004 complaint data and Ofgem switching totals May 02 – January 2004

⁸² NACAB 'The Fuel Picture' June 2002. NACAB carried out analysis on complaints on energy suppliers its Bureaux had received since March 2001 in England, Wales and Northern Ireland. The report is based on evidence from over 3,400 individual bureau evidence reports.

⁸³ Ofgem's Consultation. 'The Regulation of gas and electricity sales and marketing', August 2003.

⁸⁴ Analysis of OFT's Consumer Regulation Enforcement Division cases since 2001

- **high pressure selling techniques** – of those dissatisfied⁸⁵ 50 per cent of consumers surveyed found the agent 'too pushy/aggressive';⁸⁶
- **transferring energy supply without consumer's permission** – 11 per cent of all consumers surveyed had had their supply transferred without their knowledge.⁸⁷ Some consumers complaining to Citizens Advice were unaware who their supplier now was;
- **improperly obtaining or falsifying signatures** – 2 per cent of all consumers surveyed by Ofgem complained of this; and
- **misrepresenting the product/company** – 12 per cent of all consumers felt they been 'duped' into signing a contract.⁸⁸

Cancellation issues

4.32 Ofgem's research shows that 25 per cent of consumers who signed a contract on the doorstep went on to cancel it. The distribution of those customers varies depending on the sales channel. 40 per cent who signed on the doorstep and 36 per cent who signed on the street said they had not wanted to change supplier. However, no one who had signed a contract after being contacted by telephone went on to cancel.⁸⁹

4.33 The proportion of consumers reporting either considering or actually trying to cancel (and by implication not succeeding) a move to a new energy provider were 14 per cent and 15 per cent respectively. Given that these results apply to people who actually switched they provide two causes for concern:

⁸⁵ Ofgem found that 36 per cent of consumers approached on the doorstep were quite or very dissatisfied with the contract (while 43 per cent were quite or very satisfied).

⁸⁶ Ofgem's Consultation. 'The Regulation of gas and electricity sales and marketing', August 2003.

⁸⁷ Ofgem's Consultation. 'The Regulation of gas and electricity sales and marketing', August 2003.

⁸⁸ Ofgem's Consultation. 'The Regulation of gas and electricity sales and marketing', August 2003.

⁸⁹ Ofgem's Consultation. 'The Regulation of gas and electricity sales and marketing', August 2003.

- consumers considering cancellation suggests the original decision to switch may have not been properly thought through at the time and might also suggest that a significant minority of consumers who signed on the doorstep were doing so to encourage the salesperson to leave; and
- the presence of a proportion who tried to cancel and failed, resulting in a change of supplier against the consumer's wishes.

4.34 There is also evidence of consumers being confused over cancellation rights. Some people interviewed by Ofgem in focus groups said that they would like these rights to be made clearer to them at the time of the sales pitch. In fact, Ofgem found that only 2 per cent of respondents visited on the doorstep could recall being given cancellation details.⁹⁰

4.35 Overall, 27 per cent of respondents who decided to cancel following a switch encountered problems when cancelling, nearly half of these arising because of a lack of awareness of the cancellation period available to them.⁹¹

⁹⁰ Ofgem's Consultation. 'The Regulation of gas and electricity sales and marketing', August 2003.

⁹¹ Note: this covers all sales channels – doorstep, street, telephone, Source: Ofgem's Consultation - The Regulation of gas and electricity sales and marketing, August 2003.

Recent developments

4.36 This issue has been recognised by the industry regulator, Ofgem, the statutory consumer body, Energywatch, the DTI and the energy suppliers themselves resulting in a number of initiatives and in the last couple of years there has been reduction in the level of complaints.⁹² There is now a far greater emphasis on improving the reputation of doorstep energy selling on the part of the energy suppliers. The introduction of the EnergySure initiative, a tougher stance on energy mis-selling by Ofgem, the introduction of a new code of practice for energy suppliers and the current reviewing of Market Licence Condition 48 are all positive steps which will benefit the consumer and industry.

Ofgem

4.37 Ofgem is the regulator for gas and electricity industries in Britain. Its role is to:

- protect and advance the interests of consumers;
- promote competition where possible; and
- regulate the sector.

4.38 Ofgem operates under the direction and governance of the Gas and Electricity Markets Authority. Its powers are provided for under the Gas Act 1986, and the Electricity Act 1989, as amended by the Utilities Act 2000. It also has enforcement powers under the Competition Act 1998 and Enterprise Act 2002.⁹³ These Acts set out the need for licences, the basic licensing system and the powers and duties of the regulator. Every supplier of gas and electricity must be licensed. Conditions in the license set out the rights and obligations of licensees.⁹⁴

⁹² See table 4.3: Doorstep selling complaints for the supply of fuel, May 2002 – January 2004

⁹³ See Ofgem's website for further details www.ofgem.gov.uk

⁹⁴ Ofgem's Application Handbook 1- Overall Guidance, Nov 2003

4.39 In 2002 Ofgem acquired powers to impose financial penalties for non-compliance with licence conditions. In the same year it imposed a financial penalty on London Electricity plc £2 million for failing to stop its sales force from mis-selling to customers. This followed a four-month investigation into the sales practices of London Electricity. Ofgem found that energy sellers were using information pertaining to people who had died or were using details obtained from the electoral register to fill out supplier transfer forms. They also found examples of salespeople working door-to-door and on the street using high-pressure tactics and confusing people into switching suppliers without their knowledge.⁹⁵

Amendments to the marketing licence condition 48

4.40 The sale of gas and electricity is currently regulated through Ofgem's standard licence condition 48 of the gas and electricity supply licences. This licence condition covers direct sales and marketing activity and its purpose is to ensure that consumers are treated fairly during selling activity. Ofgem has recently reviewed the licence condition with the aim of making it clearer and more effective for suppliers and consumers.

4.41 Ofgem is continuing to seek amendments to the licence condition based on proposals set out in its second consultation document. For sales and marketing contact which is face-to-face, these amendments will prohibit:⁹⁶

- misleading consumers as to the reasons of a supplier's approach - it must be clear to consumers that the contact is for sales and marketing;

⁹⁵ Ofgem's Press releases: 'London Electricity faces £2 million financial penalty', 9 October 2002 and 'Ofgem confirms £2m penalty on London Electricity', 11 November 2002.

⁹⁶ Reproduced from 'The regulation of gas and electricity sales and marketing: proposals for the amendment of standard licence condition 48', December 2003' with kind permission of Ofgem.

- misleading consumers as to the fact that they are entering into a contract - it must be clear to consumers that they have entered into a contract (if they do so);
- forging a customer's signature or other consent format;
- selling or marketing to anyone under the age of sixteen;
- continuing an approach after a consumer has indicated that they wish it to be terminated; and
- carrying out marketing or sales activity outside the hours of 9:00am to 8:00pm.

4.42 In addition to information already prescribed by licence conditions and consumer protection legislation or regulations, the following must be provided to the consumer in writing at the time of the contact:

- written confirmation of any claims (including price or savings claims and comparisons) that are relied upon during the course of any approach made face-to-face;
- disclosure of the name of the supplier with whom the consumer is being asked to contract (the licensee will be identified in the written contract);
- the identity of the individual sales agent who is making the approach (this might be in the form of a business card or clearly printed on the documentation provided to the consumer);
- details of how to make a complaint to the supplier and contact details for Energywatch; and
- details of the cancellation period and how to cancel.

4.43 The new condition will also provide for a standard period of 14 days, during which a consumer may cancel a contract. This period will begin either from the date of the contract or the date that the consumer

receives written details of the cancellation period (if this information is received later than the date of the contract).

EnergySure

4.44 One of the initiatives taken by the industry is the introduction of the EnergySure scheme. Launched in July 2002 the scheme's aim is to promote best practice in energy selling, creating nationally accepted recognition and accreditation to energy sales agents of both electricity and gas. All major energy suppliers are involved in the scheme.

4.45 The scheme sets up a database which will provide suppliers with a list of approved energy sales people. Companies can therefore check that employees are qualified to a 'national standard' set by industry and have not been involved in poor trading practices. The database and registration scheme will mean that those who fail to deliver to the standard will no longer be able simply to move on to another supplier.

Association of Energy Sellers code of practice

4.46 Another new initiative being implemented by energy suppliers is the Association of Energy Suppliers code of practice for face to face marketing of energy supply. This has a large coverage as all the major participants in the energy supply market are members of the AES and are bound by the code. Positive elements of the code include a commitment to provide clearer information to customers, better procedures for ensuring consumers are aware they are making a contract, a better monitored complaints procedure and the provision of customer redress.

Conclusions

4.47 We recognise the problems energy suppliers have in overcoming consumer inertia and therefore the benefits of the doorstep selling channel to them. However, it is clear that the doorstep selling of energy has been generating problems for substantial numbers of consumers. In considering what action is required to address the issues raised we have looked at the steps currently being taking by the sectoral regulator and the industry itself.

- 4.48 We note that since May 2002 the actual complaint rate per thousand transfers has fallen by more than 70 per cent.⁹⁷ While there are still a high volume of complaints recorded, the initiatives outlined above and the actions of Ofgem appear to be meeting with success.
- 4.49 Any recommendation we could make in this market sector would need to be both proportionate and address clear gaps in existing approaches by Ofgem and the industry. In our view, such gaps are not apparent at this time. We have consulted regularly with Ofgem throughout this study. We are satisfied that as the sectoral regulator they have both the powers and the remit to take the lead in protecting consumers in this product sector.
- 4.50 Ofgem has demonstrated a willingness to use its powers to fine offenders where appropriate. We emphasise the importance of robust enforcement which sends a clear message that consumers will be protected. Ofgem's intention to give consumers stronger protection and better redress are also welcome. We also note that the suppliers are taking clear steps to address the problems associated with doorstep selling of energy.
- 4.51 We therefore do not make any direct recommendations in relation to medium value sales.

⁹⁷ See Table 4.3: Doorstep selling complaints for the supply of fuel, May 2002 – January 2004

5 THE HIGH VALUE PRODUCT SECTOR

Summary

- 5.1 Doorstep sales of key high value products are worth more than £2 billion a year. Problems with both solicited and unsolicited sales are more prevalent for some higher priced goods.
- 5.2 The level of complaints for these products is high accounting for over half of all doorstep selling complaints. Common complaints are consumers finding that they have made an inappropriate choice, often as the result of pressure selling, that the prices they have paid were too high, that the product they have bought is not suitable for the intended purpose or a combination of these reasons. Consequently, consumers who solicited the visit may find themselves inadvertently locked into a contract with no option to cancel as no cooling off period applies. There are also problems with unsolicited visits, where consumers may lose the benefit of their cooling off period.
- 5.3 The existing consumer protection of a cooling off period should be extended to all consumers rather than just those that were cold called. We recommend that DTI legislate to introduce this. Measures will need to be taken to ensure cooling off periods are not undermined. We recommend that the DTI consult on ways to achieve this. We also want to see cancellation rights made clearer on contracts.
- 5.4 For some high value products difficulties in shopping around on price mean consumers may be paying considerably more for products than if they had bought through an alternative sales channel or if they had been able to compare prices. We would like to see firms that rely on doorstep selling providing greater transparency on prices and a greater willingness to supply written quotes. We will look for this requirement in any consumer code seeking approval from the OFT.
- 5.5 Consumers need to be better informed of their legal rights and of the ploys and selling techniques used by salespeople. We intend to run a national consumer education campaign to help consumers become more aware of these.

SECTION 1: THE HIGH VALUE PRODUCT SECTOR

High value products

5.6 High value products are those goods and services costing over £500. This covers a wide range of products including:

- double-glazing;
- kitchens;
- bathrooms;
- heating systems; and
- assistive products.

5.7 Many of these are infrequently bought (and may be one-off purchases) but they account for the majority of doorstep sales by value. Some high value products are not easily available except through doorstep selling. This is because traders often claim products are bespoke and need to be tailored to the individual buyer.⁹⁸

5.8 High value products can be purchased both through solicited and unsolicited doorstep sales. Sixty-two percent of high value sales result from solicited visits.⁹⁹ Sales made from unsolicited visits can also be the result of appointments made following an unsolicited phone call (many double glazing firms use this approach). Whilst, in legal terms, this is an unsolicited visit, consumers might perceive this to be solicited.

⁹⁸ It should be noted that not all products that claim to be bespoke are – some are effectively products that have standard models with a variety of accessories.

⁹⁹ Annexe L

5.9 As set out in chapter 3 for practical reasons we focussed on some of the biggest selling products by value or those that are targeted at more vulnerable consumers. We believe our conclusions also apply to the doorstep sale of other products.

Value of products sold in this sector

5.10 Key high value products are worth more than £2 billion annually. Home improvement products, principally double-glazing (which has doorstep sales of £1.6 billion each year) account for the majority of sales. This sector also includes a number of products targeted at the elderly or disabled such as stair-lifts, mobility scooters and adjustable beds. Sales of those products are worth more than £200 million annually. Product sales are broken down in Table 5.1 overleaf.

Table 5.1: Products sold in the home, ranked by annual value(2002)

High Value Products (over £500)¹⁰⁰

Product	Doorstep sales (£ million)
Home improvements including ¹⁰¹	In excess of 2,000
Double glazing	1,600
Conservatories	250
Mobility products Including ¹⁰²	In excess of 80
Stair-lifts	45
Scooters and buggies	30
Digital hearing aids	120
Total	In excess of 2,200

SECTION TWO: ISSUES AROUND THE SELLING OF HIGH VALUE PRODUCTS

5.11 Doorstep selling can offer clear benefits for consumers. For some high value products it is often the easiest, or only way, to acquire them. Although they may have experienced some problems along the way, 77 per cent of consumers surveyed who had bought high value products were satisfied with their purchase and the overall sales process.¹⁰³ Nevertheless, some consumers do report problems. These are more prevalent in high value goods than in the other product value sectors.

¹⁰⁰ Annexe B

¹⁰¹ These products cover any home improvement products where the salesperson calls and may want an instant decision on the offers. This would also include fitted kitchens and bedrooms for which figures for doorstep sales are not available.

¹⁰² Other products not specified include adjustable chairs and bath lifts for which figures for doorstep sales are not available.

¹⁰³ Annexe L

Consumer complaints

5.12 High value goods account for about one in six of all doorstep selling transactions.¹⁰⁴ However, they account for over half of all complaints.¹⁰⁵ More than half of all doorstep selling complaints made to TSDs and about three-quarters of the most serious doorstep selling complaints made to Citizens Advice, were about high value products.

5.13 Complaints generally relate to:

- consumers finding they have made an inappropriate choice, often as a result of pressure selling;
- the price paid for the product is too high; and
- the product bought is not suitable for the intended purpose.

5.14 We have identified three areas which, taken together, can result in detriment to consumers:

- selling practices;
- a lack of price transparency; and
- problems with existing consumer protection legislation.

Selling practices

5.15 Sellers of high value products are generally trained in advanced selling techniques and usually work on a commission only basis.

5.16 Consumers who had bought on the doorstep, when surveyed, generally had positive perceptions of salespersons. Many found them to be polite and helpful, well informed on the product they were selling and happy to

¹⁰⁴ Annexe L - OFT further analysis of raw data.

¹⁰⁵ Annexe S

discuss price and terms and conditions (including cancellation rights where they applied).¹⁰⁶

5.17 Balanced against this, complaints generally related to issues concerning pressure selling.

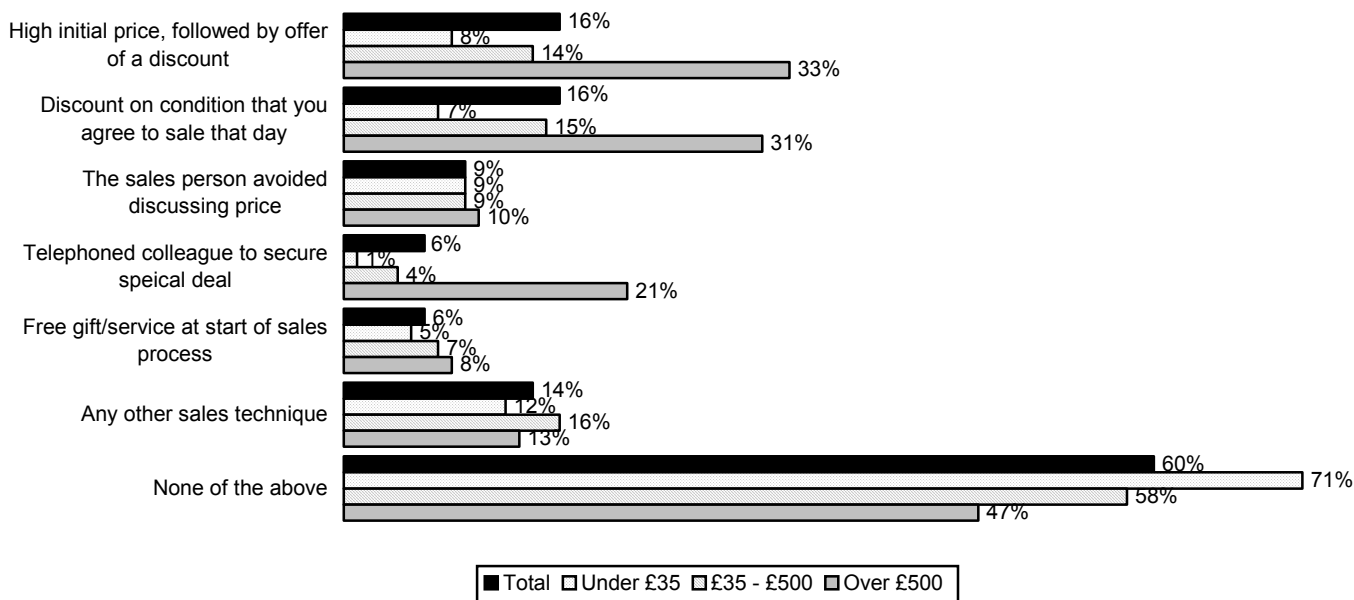
5.18 Our study by an academic psychologist shows that consumers can be put under intense pressure when buying in the home - both in solicited and unsolicited sales. The study identifies a range of sales tactics and influencing techniques that, together, are highly effective in securing sales, but can also lead consumers to make inappropriate decisions. Sellers of high value goods are trained in applying these techniques. In our consumer survey we sought to establish their prevalence. Figure 5.2 shows common sales techniques used by sellers, broken down by product value sector. Key techniques used more frequently for high value sales include:

- a high initial price followed by the offer of a discount (33 per cent);
- a discount available on the condition that the sale was agreed that day (31 per cent); and
- telephoning a colleague or superior in order to secure a special deal or discount (21 per cent).¹⁰⁷

¹⁰⁶ Annexe L

¹⁰⁷ Annexe L

Figure 5.2 Sales techniques employed by the salesperson



5.19 Our consumer survey suggests that such techniques are frequently employed. Fifteen per cent of consumers who had recently bought high value goods expressly agreed that the salesperson had applied pressure during the sale.¹⁰⁸

5.20 Our academic psychological survey suggests that these sales techniques have a particularly powerful impact on the consumer when they are used in combination. The same survey found that sellers of high value products are more likely to use several sales tactics during a sales pitch than sellers of low and medium value products.¹⁰⁹

5.21 When consumers are pressured into a sale, they may find that they regret their decision and try to cancel the contract. The likelihood of this happening will depend upon how they bought the product and how aware they are of their right, or lack of right, to cancel. Nearly 70 per cent of

¹⁰⁸ Annexe L

¹⁰⁹ Annexe L

those consumers who had bought products through doorstep selling were aware of their right (or lack of right) to cancel.¹¹⁰

- 5.22 For unsolicited sales a cooling off period is provided by the Doorstep Selling Regulations so cancellation may legally possible. Our consumer survey showed that, for unsolicited high value sales, 17 per cent of consumers gave serious consideration to cancellation and 12 per cent actually tried to cancel.¹¹¹ Roughly two-thirds of these cancellation attempts were successful.¹¹²
- 5.23 Consumers who solicited high value sales are in a different position. They do not have a cancellation right.¹¹³ If they know this it will influence how they react if they are dissatisfied with their purchase decision. In our consumer survey only 4 per cent strongly considered cancelling, but all of them actually went on to attempt cancellation. This contrasts with our analysis of case study data from Citizens Advice where the proportion of consumers attempting to cancel a contract made after a solicited visit was 79 per cent.¹¹⁴

Prices and price transparency

- 5.24 Price transparency is one issue raised by specific selling techniques. In a normally competitive market consumers are able to shop around and compare the price and quality of goods and services before choosing to buy. In such a market, prices are relatively transparent or sufficient product information exists to allow consumers to make a decision. This is not, however, the case for some high value products sold through doorstep selling. As these products are often infrequent or one-off purchases consumers are unlikely to be familiar with prices charged or the availability of competing products. For bespoke products, or those claimed to be bespoke because they require an element of tailoring to the

¹¹⁰ Annexe L

¹¹¹ Annexe L

¹¹² Annexe L – OFT further analysis of raw data.

¹¹³ Unless the trader voluntarily provides one, or the Consumer Credit Act 1974 applies.

¹¹⁴ It should be noted that this figure was taken from an analysis of complaints thought serious enough by local CA bureaux to warrant attention at its national headquarters so is a fairly narrow base of dissatisfied consumers. However, for serious cases it is indicative of a first step a dissatisfied consumer may wish to take.

individual consumer's home, companies usually do not supply price lists or detailed product descriptions in brochures. Sellers of these products are often reluctant to discuss price until the end of their sales pitch.

5.25 The first time that a consumer has any specific information about the product or price is often when the salesperson has called and is making a sales pitch. The pressure to buy 'there and then' is often difficult for consumers to resist, particularly if they are being offered discounts to sign on the spot. Such discounts are not, however, always a good deal. For example, research we commissioned found that double-glazing companies offering the highest discount in fact also offered the highest priced *final* quote. This indicates that, while discounts approaching 50 per cent of the initial price may look very attractive, they offer no guarantee that the final price will be low in absolute terms.¹¹⁵

5.26 We undertook two case studies to look in more detail at prices – focussing on double-glazing and a number of assistive products (adjustable beds, reclining chairs and mobility scooters).¹¹⁶ The main findings show that:

- the prices of similar products sold at home can vary greatly; and
- these prices can be substantially higher than prices for products sold in other ways (for example in shops or on the internet).

5.27 In a tightly controlled comparison of double glazing products sold through doorstep selling, we found that prices varied by an average of 45 per cent from the highest to the lowest quote. In one case study the quotes ranged from £5,185 to £8,223 for the same specification windows (so a price premium of 59 per cent was being charged for the highest quote).

5.28 One quote from our Salespersons' survey illustrates this well: 'It's very rare you sell something at retail price. Retail price is not actually hard value, it's what you can get for it. That's the thing about direct selling, if something is £4,000 I know people who'll sell it for £8,000'.

¹¹⁵ Annexe J

¹¹⁶ Full details of these case studies are at annexes H and I

- 5.29 For assistive products price variability was also wide, though no wider for the doorstep sale of products than it was for the same goods sold through other channels. However, we found that consumers buying through doorstep selling were paying significantly more for products than if they bought through other sales' channels. In the specific case of rise and recliner chairs, for example, the average premium for purchasing in the home rather than the high street store was 144 per cent more (or more than £2,000). Adjustable beds cost an average of 58 per cent more bought in the home than in a shop (around £1,500) and mobility scooters cost 31 per cent more (around £200) and 63 per cent more than if bought on the internet.¹¹⁷
- 5.30 We were not able to establish if goods bought at the doorstep should justify a premium price. Whilst additional travel costs may be incurred, major savings may be made by not having retail outlets. Sales staff remuneration appears common to both doorstep and ordinary retail channels. In any event, the premium we found for recliner chairs and adjustable beds are clearly disproportionate to the costs of a single sales visit, and appear high even allowing for a proportion of unsuccessful visits. We also note that this is common practice for specialist mobility retailers selling through high street shops to also offer free home visits and demonstrations on request.
- 5.31 There is a danger that doorstep selling techniques are used to restrict price competition which, coupled with consumers' lack of familiarity with some products, can lead to them getting very poor deals.

Consumer protection

- 5.32 Consumers have additional rights if they buy through doorstep selling but only for sales over £35 made during an unsolicited visit. For such sales they have a cooling off period. For these rights to be effective it is essential that consumers know what they are before they buy.

¹¹⁷ Annexe I

Scope of existing protection

5.33 The proportion of attempted cancellations for serious complaints made to Citizens Advice suggests that consumers are often as likely to regret a purchase made from a solicited visit as from an unsolicited one. Our psychological study suggests that consumers are no better prepared to deal with pressure selling if they have solicited the visit than if they were cold called. Given that most doorstep selling complaints concern high value products and that 62 per cent of high value sales are solicited,¹¹⁸ this indicates that existing consumer protection is insufficient to meet the needs of consumers buying in the home.

Effectiveness of cooling off periods

- 5.34 Given the importance of cooling off periods, it is important that they are not undermined as they can be under the present Regulations.
- Regulation 7(2)(iv) of the Doorstep Selling Regulations removes the benefit of a cooling off period if the product has been supplied and fitted in the home before the consumer exercises the right to cancel the contract. In that event the consumer is obliged to pay for those products and any connected service (such as the installation). The regulation provides protection to legitimate traders from having to bear unreasonable costs. It has, however, been used by some traders to ensure that a consumer will find it difficult and costly in practice to cancel a contract and they may find themselves effectively locked into it;
 - traders may also undertake other work or actions which for all practical purposes renders the return of the goods impossible. Examples we have found include the supply by means of a doorstep sale of a new bed and the associated removal and destruction of an existing bed. Successfully cancelling a contract could result in having nothing to sleep on – a situation that, even as a temporary

¹¹⁸ Annexe L

arrangement, consumers would not contemplate, especially the elderly and disabled.¹¹⁹

SECTION 3: CONCLUSIONS AND RECOMMENDATIONS

- 5.35 While there are benefits for consumers to be had from doorstep selling it is also clear that changes need to be made. This is particularly true of higher value products (which generate most complaints), but also applies to the sale of medium value products. Where consumers do encounter problems the existing consumer legislation does not always provide a solution.
- 5.36 We have considered ways to address these problems: more effective consumer protection and providing better information to consumers.

Consumer protection

Clear cancellation rights on contracts

- 5.37 Many consumers are unclear about their rights when buying through doorstep selling and clearer information can only be to their benefit. Consumers need to be aware of any right they may have to cancel a contract, also of when they may lose the benefit of that right. There are a number of ways to provide consumers with better information, which we explore further below. An important positive step would be to ensure that the contract being entered into also provides consumers with clear and prominent information about cancellation rights. The Doorstep Selling Regulations already set out certain requirements on the way cancellation rights should be displayed including that they be printed no less prominently than any other information in the contract. We would like to see such information **more** prominently displayed.
- 5.38 **We recommend that the Doorstep Selling Regulations be amended to require notice of cancellation rights and how they may be exercised to be prominently and clearly displayed in the contract, with a clear indication of the circumstances in which cancellation rights can be lost.**

¹¹⁹ OFT consumer complaints

Providing cancellation rights to all consumers

- 5.39 Cooling off periods in which a contract can be cancelled can provide clear benefits to consumers. They are important to discourage the excesses of high pressure selling and give consumers more opportunities to shop around. At present, the Doorstep Selling Regulations only provide a cooling off period and cancellation right to those sales made following an unsolicited visit. We do not think that this is sufficient. More complaints are made about the doorstep sale of high value products than any other, usually involving pressure selling, and the majority of doorstep sales are made during solicited visits. This supports the conclusions in our psychological study that consumers are no better prepared to resist pressure selling techniques if they have solicited the visit than if they are cold called.
- 5.40 **All** consumers should have the 'safety net' of a cooling off period. The benefits of providing consumers with a cooling off period **in addition** to that provided at law are already explicitly recognised by some trade associations. The Direct Selling Association and the Glass and Glazing Federation make it a condition in their codes of practice that members must provide all customers with a cooling off period in most cases irrespective of the wording of the Doorstep Selling Regulations.
- 5.41 We see no reason why providing a cooling off period for all consumers will have a disproportionate impact on fair dealing businesses that provide products through doorstep selling. Consumers will only exercise their cancellation rights if they make a purchase they later regret – usually because they have been mis-sold a product that they do not want, that is inappropriate to their needs or they cannot afford it. This should not impact on reputable businesses.
- 5.42 **We therefore recommend that DTI should legislate to give a cancellation right in all sales which take place away from business premises, whether or not the sales visit which gave rise to it was solicited by the consumer.**

Effective 'cooling off' periods

5.43 If cooling off periods are to be effective they need to be consistently applied and it is important that they are not undermined. We have already outlined two ways in which this might happen; one by exploiting an existing legal exception and the other by sales practices that make cancellation a difficult option for consumers to exercise. We have considered two methods which could be used to address this:

- removing the right to recover payment contained in regulation 7(2)(iv) of the Doorstep Selling Regulations;
- a ban on work, payment or both within seven days of signing the contract of sale.¹²⁰

5.44 Both need careful consideration to ensure that they allow for consumer choice and that they are not disproportionate in addressing the problems identified.

Removal of regulation 7(2)(iv)

5.45 7(2)(iv) of the Doorstep Selling Regulations requires the consumer to pay for any goods supplied and installed into the fabric of the building (and any connected service) prior to the cancellation of the contract. Removing the regulation would allow consumers to cancel a contract and have any sums already paid refunded. This would prevent firms deliberately using the legal exception to undermine the cooling off period: if they did supply and install the goods they would then have to meet the cost if the consumer subsequently cancelled the contract. Simply removing the regulation would not, however, help in preventing cooling off periods being undermined by other means such as the example given above of buying and destroying a bed.

5.46 It is also important to note that the rationale behind regulation 7(2)(iv) is to protect legitimate traders from having to bear unreasonable costs

¹²⁰ This option is already adopted by France. For further information on doorstep selling legislation in other European countries see Annexe E.

where the consumer exercises their cancellation right in certain specified circumstances (one of which is covered by 7(2)(iv) - where goods have been incorporated into the fabric of the building and the premises). If there were no way to recover monies legitimately owed traders are unlikely to be willing to take the risk of carrying out work until the cooling off period has expired even where the consumer urgently wants the work done.

Ban on work and/or payment during the seven days of the cancellation period

- 5.47 This would arguably address both methods of undermining cooling off periods and might also provide a route for tackling bogus traders.¹²¹ However a ban on all work and /or payment within the cooling off period would not be in the interests of consumers. There will often be circumstances where the work is wanted urgently and when a ban would be harmful. This would be particularly problematic if cooling off periods were extended to solicited sales, as we recommend. It may be that a ban could only apply to unsolicited visits or that limited exceptions would be required.
- 5.48 The two options set out above are not, of course, mutually exclusive and there may be benefits in implementing both. A ban could apply to sales following unsolicited visits. Removing regulation 7(2)(iv) would affect sales following solicited visits as well as unsolicited (if cooling off periods are extended to them) which would allow consumers who solicited visits further protection without widening the scope of a ban.
- 5.49 The options need careful consideration both individually and together. We recognise that there will be occasions where consumers may want work done within seven days and would be willing to forego the rights of a cooling off period in order for this to happen. Exceptions would be required and would need to recognise the potential for consumers to waive any ban if the work needed to be done immediately. These possible exceptions could include:

¹²¹ See paragraph 6.87 for further details

- allowing consumers actively to waive any ban or exemption so that products can be delivered/installed within the seven day cooling off period. This would allow for immediate work or delivery to occur but may create another incentive for unscrupulous salespersons to apply pressure tactics to get this agreement (perhaps by offering a further discount); and
- setting a monetary level below which any proposed amendment or ban would not apply.

5.50 We recognise that neither removing regulation 7(2)(iv) nor imposing a ban are perfect solutions. However they are likely to reduce the possibility of consumers becoming locked in to contracts without their knowing. Exceptions to allow consumers the freedom to get urgent work done would be required. We therefore think it is worth exploring these options further.

5.51 We recommend that to avoid the undermining of cooling off periods DTI should consult on the removal of the right to recover payment in regulation 7(2)(iv) of the Doorstep Selling Regulations and a possible ban on work and/or payment within seven days for contracts concluded following at least an unsolicited visit, subject to limited exceptions.

Informing consumers

5.52 Better consumer protection has no value if consumers are not aware that it exists. It is important that consumers have clear information on their rights and how and when they apply. Clear information on the ploys and selling techniques used by salespersons will also help consumers in spotting when certain tactics are being used.

5.53 We intend to run a national consumer education campaign to provide consumers with information on their rights when buying via doorstep selling, to encourage the benefits of shopping around and to inform them about the psychological techniques used by salespeople with advice on how to combat them.

- 5.54 We intend to run this campaign in concert with partners representing consumer groups in order to achieve the maximum impact.
- 5.55 The campaign will highlight existing protection and services for consumers, such as the Telephone Preference Service (which prevents consumers who sign up to the service from receiving unsolicited telephone calls) and emphasise the benefits of shopping around, getting quotes from a range of suppliers and, where possible comparing quotes with similar products sold in shops. Comparing prices and quality is central to achieving value for money – our study has shown that there are clear benefits to doing so in this sector. We will also seek to inform consumers of independent and specialist sources of advice where appropriate.
- 5.56 The bespoke nature of some products often makes it difficult to give prices in brochures, but we have seen examples which show it can be done. Where the variations are drawn from a set menu of options it is especially straightforward. **We would like to see firms selling on the doorstep providing greater transparency on prices for their products and a greater willingness to provide written quotes. We would expect to see this requirement included in any Consumer Code seeking approval from the OFT.**

6 BOGUS TRADING

Summary

- 6.1 Bogus trading occurs when consumers (often the elderly or vulnerable) are cold-called and tricked or pressurised into paying large sums often for shoddy goods or services. There are other examples of bogus trading but property maintenance (eg roofing or tarmacking) covers a high proportion of cases and almost all the high value cases.
- 6.2 The consumer detriment in individual cases is clear and high. The annual number of bogus trading cases reported to UK TSDs is estimated to be 15,000.¹²² In addition, there are cases reported to the police or taken up with other agencies; there appears to be a high level of underreporting. Average values of money paid by consumers to bogus traders are well over £2,000 in samples from a number of areas.
- 6.3 We conclude that this is a serious problem but recognise that there are difficulties in taking enforcement action. The best prospects for tackling bogus traders come where there is good cooperation between TSDs and police and other agencies. We wish to see such cooperation continue to grow, building on existing best practice, and we therefore welcome the proposal for a cross-Departmental Ministerial Group to provide coordination at national level.
- 6.4 However, while cooperation and best practice will help, we do not believe it will be sufficient of itself to deal adequately with the bogus trader problem. We therefore consider that Government should pursue a number of legislative options for strengthening powers to tackle bogus traders.

¹²² This has been revised from the figure of 16,000 quoted in the OFT position paper *Legislative options for tackling bogus trading* (OFT 704, 4 March 2004)

Introduction

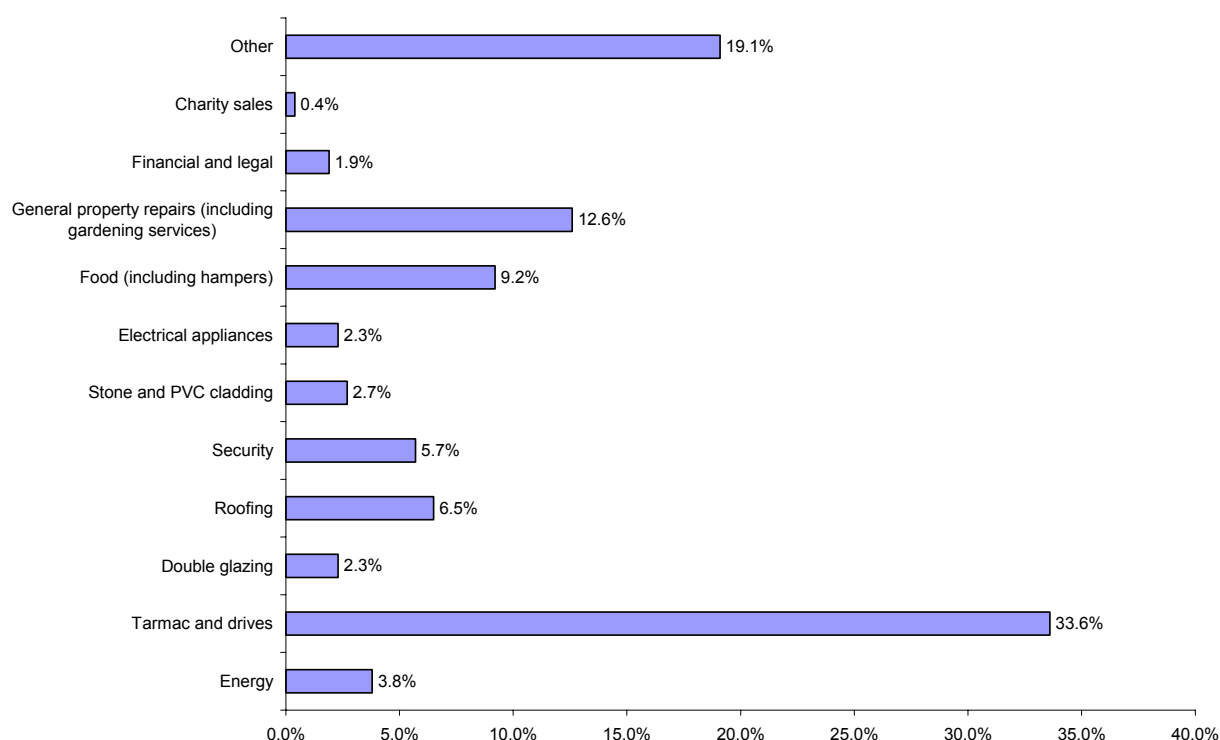
- 6.5 In examining the mechanics behind doorstep selling transactions and problems associated with it, our research showed that some of the behaviour complained of under the general heading of 'doorstep selling' falls so far outside normal business practice that it cannot be considered merely an 'unfair' trading practice. Perpetrators of such behaviour are often described as 'bogus traders'.
- 6.6 Coupled with the fact that it has a disproportionately severe effect upon its victims (who are quite often vulnerable and elderly), both financially and psychologically, it was an area we considered in more detail.

SECTION 1: THE SCOPE OF BOGUS TRADING

What is bogus trading?

- 6.7 Whilst in some instances 'bogus traders' may sell goods such as electrical items or even frozen fish, the most common cases reported involve property repair and maintenance (including tarmac and drives), landscape and gardening services.

Table 6.1 Bogus trading complaints: by product¹²³



6.8 Property maintenance services provide the greatest opportunity for the bogus trader to obtain large amounts of money.¹²⁴ This is because:

- there is the opportunity to create a sense of need and urgency by claiming that property is in a dangerous condition, or is deteriorating. Anecdotal evidence reports bogus traders planting broken slates outside a property before they knock on the door to highlight to the consumer the urgent need to have their roof repaired;¹²⁵
- such services are normally high value transactions and it is easier to inflate the cost as consumers are unlikely to have a clear idea of a fair price; and
- the consumer, especially if they are elderly, may have difficulty in checking the extent and quality of the work carried out.

¹²³ Data taken from North Yorkshire Trading Standards for the period January to December 2003. Base size 262.

¹²⁴ Property maintenance services includes general property repairs, gardening services, stone and PVC cladding, roofing, double glazing, tarmac and drives.

¹²⁵ Cases reported to OFT by local Trading Standards officers

- 6.9 Offenders generally purport to be tradespeople, cold-calling consumers and offering a variety of services such as repairs, services and maintenance to homes and gardens. They will often carry out inferior work (sometimes no work at all) and charge exorbitant fees which are wholly disproportionate to the amount of work done.
- 6.10 An elderly man living alone in Warwickshire had been repeatedly visited by a doorstep trader in January 2003. Within about four weeks his bank account had been emptied of approximately £20,000. He had also sold his car and run up a £6,000 overdraft in order to pay over £26,000 for roofing work that was later valued at £3,500.¹²⁶
- 6.11 Bogus traders may pressurise vulnerable people to obtain monies and sometimes accompany them to banks and building societies to withdraw cash. These offences are notoriously difficult to prove as the offender hides behind the defence of providing a service.
- 6.12 Trading Standards first heard of Mr. G when the manager of the local bank called to say he had an elderly customer attempting to withdraw £15,000 in cash. An officer went to the bank to see the 82 year-old. He had agreed verbally to allow a doorstep roofer to start work on his home. The roofer wanted payment in cash, so Mr. G had come down to the bank to oblige.
- 6.13 On that occasion Mr. G was persuaded not to withdraw the cash. That afternoon he was back at the bank again trying to withdraw the cash. This time he had a quotation with him. Trading Standards returned to the bank, but this time Mr. G insisted he was doing the right thing.

¹²⁶ Doorstep Selling – Enforcement issues, October 2003

- 6.14 The next day officers from Trading Standards went with a surveyor from Building Control to Mr. G's house. He was happy for his roof to be inspected; the surveyor said it should have cost in the region of £7,000 not the £25,000 Mr. G paid in cash.¹²⁷
- 6.15 For this reason the police will often not intervene in what they see as essentially a civil matter. However, Trading Standards may consider the matter amounts to deception, and may in turn consider it to be a police responsibility or, without the benefit of powers of arrest, may have difficulty taking enforcement action themselves due to the difficulty in identifying the traders or tracing them. Consumers, seeking to enforce their rights, face similar problems.
- 6.16 These 'tradespeople' have long exploited this enforcement gap. In extreme cases successful prosecutions have been instituted against bogus property repairers. However in the vast majority of cases the strength of evidence required to prove deception, intent and causation under the Theft Act precludes any action from being taken.¹²⁸ Traders therefore exploit this ambiguity in policy and attitude by undertaking minimal work at exorbitant prices, knowing that the police will not intervene and that the victims have little prospect of achieving successful civil redress.
- 6.17 Common elements which may occur in such bogus trading offences are:
- the consumer is cold-called;
 - in the majority of cases the consumer is elderly and living alone;
 - the transaction will often involve the sale of property maintenance, repair or improvement including outdoor work such as tarmacking or landscaping though there are a number of cases involving the sale of goods;
 - no reference is made to cancellation rights;

¹²⁷ Annexe Q

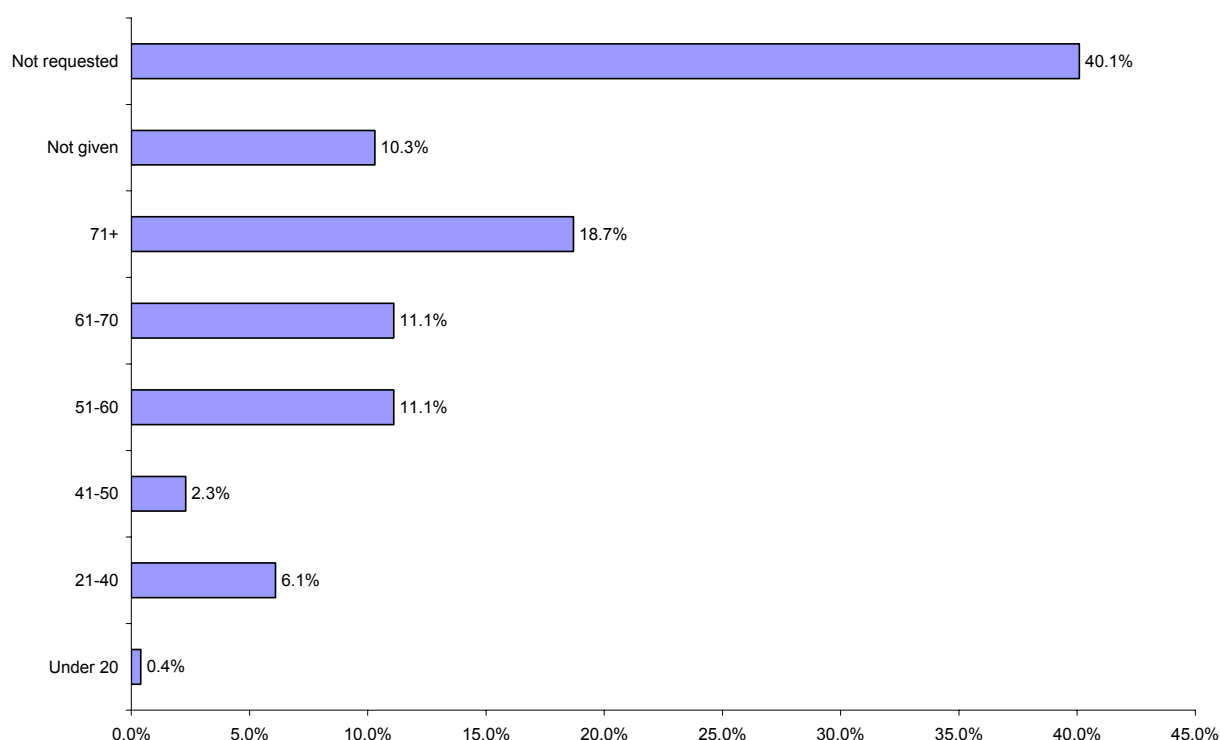
¹²⁸ The Theft Act 1968, section 15 (parallel legislation applies in Northern Ireland, different legislation applies in Scotland)

- work begins immediately;
- no work is done or the amount of work done is wholly disproportionate to the amount paid by the consumer; and
- there is some degree of deception or untruth involved in these incidents, for instance:
 - that work is necessary, or necessary immediately, when it is not;
 - that the trader has the skills required to carry out the work, but do not;
 - where a price is given, this will be what is charged and will not be changed, and is not;
 - where no price is given, a reasonable amount will be charged in proportion to the amount of work done, and is not; and
 - claiming that the cost of the work is fair and reasonable, and bears relation to a reasonable market price, when it does not.
- the consumer is put under strong pressure to have the work done and pay for it; this is particularly so of vulnerable individuals.

Who are the victims?

6.18 The majority of victims of this type of offence are elderly people. A database run by North Yorkshire Trading Standards indicates the highest proportion of victims to be over the age of 70. Further anecdotal evidence clearly indicates that the victims are mainly elderly people with a large proportion living alone.

Table 6.2 Average age of victim following a bogus trade¹²⁹



Who are the offenders?

6.19 Bogus traders work alone or in teams. Analysis of databases established by multi-agency partnerships and offender interviews indicate that such traders are highly mobile,¹³⁰ choosing locations with a high density of older residents or mixed communities within easy access of main or arterial roads.

6.20 Trading standards information suggests bogus traders may sometimes travel hundreds of miles between offences.¹³¹ Offenders move on following a concentrated period of offending. The constant movement makes detection and tracing both difficult and expensive, compounded by the lack of co-ordinated organised recording systems in operation.

¹²⁹ Data taken from North Yorkshire Trading Standards for the period January to December 2003. Base size 262.

¹³⁰ 'The Formulation of a Strategy to Prevent and Detect Distraction Burglary Offences Against Older People' by Ex-Detective Chief Superintendent Brian Steele

¹³¹ Trading Standards Institute – Door to door cold calling of property repairs, maintenance and improvements, April 2003

Who do the offenders work with?

6.21 Analysis of offender interviews conducted by Brian Steele and evidence obtained by Trading Standards indicate that bogus traders may have a network of connections. Evidence obtained by Operation Litotes identified there was a close relationship with bogus traders and distraction burglary.¹³² Both these types of offenders are known to sell on victims' details. And some offenders switch between both activities.

Q. How do you select the people you target?

A. 'Old people living alone are best, but I have done many a couple and some young ones as well.'

'I've bought a few target victims. When I was in prison I shared a cell with a lad who had a long list of TIC's. (Taken into consideration) I bought the details off the TIC list. He told me the soft touches that were good for a lot of money. I bought the job I'm doing time for (murder) off his TIC list.'¹³³

Bogus trading and distraction burglary¹³⁴

6.22 The close relationship between bogus trading and distraction burglary is highly significant for prevention and enforcement. It requires authorities to share intelligence across both activities and adds an extra dimension to the cooperation needed between police, TSDs and other agencies – beyond what is needed for bogus trader enforcement alone. The requirement for coordination applies also to national level, where consumer protection policy is a DTI responsibility and anti-burglary policy a Home Office and devolved administration responsibility.

¹³² Full details of Operation Litotes can be found in Annexe N and O

¹³³ 'The Formulation of a Strategy to Prevent and Detect Distraction Burglary Offences Against Older People' by Ex-Detective Chief Superintendent Brian Steele

¹³⁴ Distraction burglary: any crime where a falsehood, trick or distraction is used on an occupant of a dwelling to gain, or try to gain, access to the premises to commit burglary.

How much money do bogus traders make?

- 6.23 Data from Citizens Advice averaged each case around £2,400. Information on cases of bogus trading from Surrey TSD, where the cost of the transaction is known, suggested an average transaction of £3,340, with individual cases involving large sums of money, up to £50,000.
- 6.24 During a nine-month period from January to September 2003, Surrey Trading Standards Service recorded 181 bogus trader complaints. The sums involved exceeded £440,000 in total. In some cases the final amount the consumer paid was lower than the initial amount demanded, due to intervention and negotiation from Trading Standards or the consumer's friends or family. Trading Standards estimate that less than 10 per cent of consumers seek assistance from them when trading problems are experienced. Applying this estimate, Surrey Trading Standards believe the true scale of the problem over this period could exceed £4.4m for their area alone.
- 6.25 In 2002, over a set of about 100 cold calling complaints, Bromley Trading Standards estimate the average transaction had a value of over £2,400, though this included some cases where the intervention of the TSD prevented money being paid over to the rogue trader. In a set of cases involving cold calling for roofing, building and paving work scams through 2002 and 2003, Bromley TSD estimate the average transaction value at £2,500.

Examples of behaviour

- 6.26 A typical case is reported by Surrey Trading Standards:

A consumer received an unsolicited visit 6 weeks ago – trader said tiles were loose on roof. Consumer agreed for work to be done but next day the owner of business arrived saying the job was unsafe, and scaffolding was needed at a cost of £3,400. As one piece of work is finished, trader finds something else wrong – all fairly small jobs. Trader takes consumer to the bank to get the cash – on one occasion he withdrew £28,000.

Currently a blocked drain is being repaired for which the trader is expecting a further £7000. Son of consumer believes that £55,000 has already been paid. Consumer has not been physically threatened but when costs are mentioned he feels psychologically threatened.

SECTION 2: FINDINGS

Impact on victims of bogus traders

- 6.27 Markets work best for consumers when bargains are freely entered into, but only if buyers and sellers have the same information. Clearly that condition is not met in the case of those individual consumers who are victims of bogus traders. The consumers involved have received very little of what they expected. Some have been subject to duress so claims of bargains freely struck do not hold. Thus there is economic detriment not only in terms of the money consumers have paid out, but in many instances there is the cost of putting right damage caused by bogus traders or a reduction in the value of property where work has been carried out poorly.
- 6.28 Complaint evidence shows that the amounts of money involved can be large, and that a consumer that has parted with money on one occasion is likely to be targeted again by the same trader. Unlike burglaries, the loss is not limited by the amount of cash or valuables in the home – the trader may accept a cheque or take the consumer to a bank or building society to obtain cash. In one particular case, after already paying £27,000 to bogus traders for work, an elderly woman handed over the interest in her house to the traders in return for guaranteed repairs as needed for the rest of her life.¹³⁵
- 6.29 The activities of bogus traders have an impact on the credibility of legitimate businesses that have to do more in order to prove themselves. Consumer mis-trust generated by the activities of bogus traders means that information given out by legitimate business may be devalued. In such situations, the quality of businesses may even suffer if their claims

¹³⁵ Case reported to OFT by Bromley Trading Standards.

to quality are not believed.¹³⁶ Some consumers may be reluctant to purchase at all if they feel they lack the ability to distinguish the rogues from legitimate business; indeed research found that 80 per cent of consumers felt that salespeople should not be allowed to make unsolicited calls at someone's home.¹³⁷ The Federation of Master Builders estimates that their members lose up to £1.5 billion to cowboy builders each year, a fair proportion of whom will be bogus doorstep traders.

- 6.30 In the most extreme cases bogus traders may resort to aggression or even violence if the consumer refuses to pay. Research carried out into the effects of burglary on elderly and vulnerable people shows that they can experience a significant breakdown in health and quality of life following such incidents and it is likely that similar effects will be seen in these extreme cases of bogus traders.¹³⁸

The scale of the problem

- 6.31 There is no consistent or reliable set of data on bogus trading cases. An estimate of total numbers reported can only be built up from Trading Standards and police figures that have been collected in certain areas only and on varying definitions, and then grossing up. Our best estimate of the annual number of bogus trading cases reported to UK TSDs is 15,000. To this should be added the number of bogus trading cases reported to the police and not TSDs, but we do not have a usable estimate. And there is a view among enforcement, advice and consumer bodies that many other cases go unreported.¹³⁹

¹³⁶ For a fuller review see Vickers, J; Economics for consumer policy: British Academy Keynes lecture, October 2003 www.offt.gov.uk

¹³⁷ Trading Standards Institute – Door to door cold calling of property repairs, maintenance and improvements, April 2003

¹³⁸ Home Office Research Study 269 'Distraction burglary amongst older adults and ethnic minority communities', first published 2003

¹³⁹ Further analysis of the scale of the bogus trading issue can be found in Annexe R

Problems in collecting data

6.32 Under-reporting of this type of offence is common for four main reasons, namely:

- embarrassment on the part of the victim - they believe that it is their fault. They are embarrassed that they were deceived in such a way and trusted the person when he visited;
- the victim may feel fear on two accounts; he or she may have been put under added pressure from the offender not to report the incident or tell anyone . The victim may also be scared that their family may feel that they can no longer look after themselves and will put them into a residential care;
- the victim may **not** even realise that they have been tricked or duped; if the victim has been deceived into thinking that work was necessary or the goods or services offer value for money, they may never realise that they have been a victim of a bogus trading offence; and
- victims feel that reporting the offence is a futile exercise which will achieve nothing. Older adult victims may also be reluctant to get involved in cases which may involve participating in police identification procedures and giving evidence at court.

6.33 Coupled with the problem of under-reporting is the problem in actual recording of the data shown above in estimating the scale of the problem. The main problems with recording data are:

- there is no obvious organisation to complain to - when a victim does wish to make a complaint, some may approach enforcement agencies such as the police or trading standards service, but others may seek help from advice services such as Citizens Advice;
- recording practices and mechanisms vary across organisations and data is not easily accessible within each body. At present trading standards services will record consumer complaints and classify these according to trading practice for the purpose of statistics gathered by

the OFT. Current coding does not, however, allow easy identification of complaints about doorstep selling, let alone those that relate to bogus traders. From its launch Consumer Direct will record the method of sale.¹⁴⁰ Any problem arising from doorstep selling can be identified but specific complaint Bogus Trading has not, initially, been included¹⁴¹; and

- Complaints may also be directed towards the police. However, police practices vary. Typically an initial complaint to a police call centre will only be recorded if the call handler considers that it relates to criminal activity, and not if it is referred to another agency. Evidence suggests that a large number of such complaints are 'lost' at this stage. Even where the incident is recorded, in the majority of cases it will appear as an intelligence report, rather than as a crime, and so not appear in official crime statistics.

Problems of enforcement

6.34 The review of enforcement activity by trading standards authorities carried out for this study shows that there have been relatively few successful prosecutions of bogus traders.¹⁴² The police report similarly.

6.35 Research found a number of common problems consistently reported which caused barriers to enforcement. These include:

- slow reporting of doorstep selling offences;
- lack of effective legislation to deal with current offences;
- lack of resources;

¹⁴⁰ Consumer Direct will be the first point of call for consumers, providing first tier advice on a range of consumer matters, including advice before shopping, information on consumer rights and practical guidance on individual problems and how to gain redress. The aim is to give people the knowledge, tools and confidence to be able to resolve matters themselves. Further information can be found at <http://www.dti.gov.uk/ccp/cdinfo/index.htm>.

¹⁴¹ see paragraph 6.92 for recommended changes to Consumer Direct coding.

¹⁴² Annexe P and Q.

- complainants reluctant / unable to give statements / give poor evidence; and
- no agreed multi-agency approach.

6.36 The problem of police securing adequate evidence is typified in Brian Steele's interviews:¹⁴³

'The trick is never admit anything if you get arrested. Always claim to be legit. Say it must have been someone else if they swindled them...Old people are rotten witnesses. Dispute what they say. The police won't want to try a case on their evidence alone... It makes the police more likely to drop it and say it's a civil dispute'

6.37 However the main problem faced by Trading Standards is the fact that the traders may be highly mobile, often travelling large distances for work and are therefore difficult to trace. When complaints are received trading standards departments can often do little because it is after the event. In most cases it is not possible to trace the trader either because the complainant has no details or because the trader is using a fictitious or untraceable address together with an unregistered vehicle and a 'pay-as-you-go' mobile phone.¹⁴⁴

6.38 Our Trading Standards enforcement surveys show traders will often share names, so that if one has a criminal record and is known to the police they all use that name for any dealings with enforcement authorities. It is also known that they will swap vehicles during the day to make tracing and detection more difficult.¹⁴⁵

6.39 As awareness of the problem rises and consumer education takes effect, there is evidence that traders are taking on the guise of a legitimate business. Many produce flyers, some in glossy colour format, and letter-headed invoices. Some dress in a 'uniform', for example polo shirts or baseball caps with business logos on.

¹⁴³ 'The Formulation of a Strategy to Prevent and Detect Distraction Burglary Offences Against Older People' by Ex-Detective Chief Superintendent Brian Steele

¹⁴⁴ Annexe P and Annexe Q

¹⁴⁵ *ante*

'Firstly I make sure I'm difficult to identify. I have business cards and magnetic signs on my van but they're just mobile numbers and can't be traced to me. The trick is to make sure you do a little bit of work. It doesn't really matter how poor the work is. As long as you've done a bit you can claim it's not a crime, just that the householders had a poor deal. The police won't get involved if the householders just had a bad business deal.'¹⁴⁶

Other enforcement problems

6.40 Other enforcement problems arise due to the difficulty in classifying bogus trading activities.

6.41 Potentially both police and trading standards authorities can act against bogus traders. Whilst there are a number of local initiatives whereby police and trading standards work together,¹⁴⁷ in the majority of cases whether either will act in an individual case will depend more on the consumer's first point of contact than who is actually best placed to do so. And, in many cases no action is taken at all, with both police and trading standards believing the problem falls within the other's area of responsibility. Of the 945 incidents reported to North Yorkshire police, only 4 per cent were investigated.¹⁴⁸

6.42 This 'enforcement gap' seems to be exacerbated by a number of factors:

- there is no national concordat or protocols between police and trading standards for dealing with this issue;
- there are no clear mechanisms for information gathering and sharing;
- there is a low awareness amongst police of trading standards' ambit and powers; and

¹⁴⁶ 'The Formulation of a Strategy to Prevent and Detect Distraction Burglary Offences Against Older People' by Ex-Detective Chief Superintendent Brian Steele

¹⁴⁷ See Annexes N and O for further detail

¹⁴⁸ Annexe P

- the current lack of recording of such incidents, and subsequent difficulty in quantifying the problem, means that it is impossible to make objective resourcing and prioritisation decisions.

How is the problem tackled at present?

6.43 Many regional and national initiatives have been set up in recent years to tackle the problem of doorstep crime and bogus traders. They are often led by trading standards departments, though a number of significant schemes have been set up by local police forces. The majority of the schemes however, are multi-agency, involving not only trading standards and police, but also other partners such as social services, Age Concern and energy companies.

6.44 Through the work of SETSA we have identified over 50 local, regional and national initiatives across the UK to deal with bogus traders and distraction burglary.¹⁴⁹ This however is merely a snapshot of activity.

6.45 A variety of approaches have been taken to address the problem of bogus traders. These include:

- **education** of potential victims and of those working with vulnerable groups;
- **awareness raising among partners and guidance on bogus traders and the role of police, TS and other agencies;**
- **disruption techniques** to stop bogus traders from working (e.g. cold-calling bans in certain areas);
- **better intelligence collection** and dissemination with the view to better detection and enforcement action;

¹⁴⁹ SETSA is the South East Trading Standards Authority which initiated a project to collate many of these schemes

- **rapid response teams** to improve detection and capture of bogus traders. These are also used to gather evidence for enforcement action;
- **bank and Building society/ Post Office protocols** to encourage staff to spot unusual withdrawals by vulnerable consumers and report them to the authorities; and
- **approved trader schemes** to give consumers an alternative, and vetted, course of help with property repairs, with the view that they will be less likely to fall prey to bogus traders. Home improvement schemes also help consumers get access to legitimate traders.

6.46 Most schemes use a combination of these approaches to tackle problems with bogus traders. A range of initiatives to illustrate the various approaches have been outlined below.

Education

6.47 Educating and empowering potential victims about bogus traders and doorstep crime may help to tackle this issue. However, at present there is little evidence to suggest that this is effective. Most initiatives involve some sort of education of potential victims, or people who work closely with them.

6.48 Cambridge and Peterborough distraction burglary and rogue trader task force is a police-led taskforce. It was set up in August 2001 to reduce the number of victims of bogus callers. The taskforce comprises over 30 different agencies and organisations and is a very good example of multi-agency working.

- 6.49 The main thrust of their campaign has been to target the second and third generations, so that anyone knowing, working with, related to, living next door to older people is aware of the problem and given advice and support. Advertising campaign with posters, leaflets and banner stands, posters on buses and railway stations displays the message 'Who is at dad's door?' and 'Who is mum letting in today?'
- 6.50 They have also developed a number of other projects, from No Cold Call areas to awareness days/tea parties.¹⁵⁰
- 6.51 Wiltshire police and trading standards have developed an internet alarm system which warns community organisations, parish councils and support groups, about bogus traders in the area.
- 6.52 Dorset Trading Standards, working in partnership with local police and other agencies, has set up a project to provide elderly and vulnerable residents who are obtaining quotes or estimates for work which needs doing in their homes, with volunteer assistance to ensure they do not become victims of rogue traders and distraction burglars. Residents receive a letter or a pack containing crime prevention and trading standards advice, or a volunteer is sent around to their home at the time a tradesman is expected.

Raising awareness among partner agencies and guidance

- 6.53 Some agencies have focussed on raising awareness among partners of their roles and responsibilities in dealing with bogus traders.
- 6.54 Cheshire Police distraction burglary taskforce has run seminars to raise awareness for partner agencies who deal with vulnerable and elderly consumers. The seminars raise awareness of distraction burglary and linked crimes, such as bogus traders and unscrupulous doorstep selling. The seminars help clarify roles and responsibilities for each of the partner agencies.

¹⁵⁰ see **Disruption techniques** paragraphs 6.51 for further details

- 6.55 The North of England Trading Standards group has been instrumental in bringing the problem of bogus traders into the limelight.¹⁵¹ As part of their awareness raising campaign, they launched 'Doorstoppers'.¹⁵² This has information to support enforcement staff and organisations fighting doorstep crime - from information on regional and national doorstep crime initiatives, to education and training materials.
- 6.56 A training package has recently been designed for trading standards enforcement staff and managers to raise awareness and improve consumer education of doorstep crime issues. Approximately 70 local authorities are expected to receive training. The main partners in the training programme are The North of England Trading Standards Group and the Trading Standards Institute, and the funding for the scheme has been provided by the DTI.
- 6.57 The Home Office has also produced, via their Distraction Burglary Taskforce, a Good Practice Guide and Toolkit for tackling distraction.¹⁵³ This covers good practice for police and housing practitioners, with suggested partnerships, as well as sharing findings from pilot projects.
- 6.58 The Association of Chief Police Officers has also recently produced a Best Practice Guide for Burglary which includes guidance for police on dealing with distraction burglary and bogus traders who cold-call.¹⁵⁴

Disruption techniques

- 6.59 Some multi-agency groups have developed schemes which make it difficult for bogus traders to operate.
- 6.60 Cambridgeshire and Peterborough Trading Standards and Cambridgeshire Constabulary have designated areas where cold calling is discouraged. They piloted a 'No Cold Call Zone' in 2002, and on the success of this, are looking to extend it to other 'risk areas'.

¹⁵¹ North of England Trading Standards group includes: Cumbria County Council, Durham County Council, Lancashire County Council, North Yorkshire County Council, Northumberland County Council, West Yorkshire Joint Services

¹⁵² website www.doorstoppers.info

¹⁵³ www.crimereduction.gov.uk/boguscaller1.htm

- 6.61 The pilot project was implemented in 20 areas that were easily identifiable as housing older and vulnerable people and with the highest reported incidents of distraction burglary and rogue trading in Cambridgeshire. Signs were erected in these areas informing potential cold callers that uninvited sales people would not be entertained. The project involved meeting with residents, giving them information packs.
- 6.62 The scheme has been evaluated. On a recent visit back to the residents, the most noticeable thing was the increase in confidence and assertiveness of the older people when dealing with callers to the door and the reduced fear of crime. Most residents also felt that the scheme had deterred uninvited doorstep salespeople. And every resident visited thought the scheme was necessary in their particular area and welcomed it.¹⁵⁵ The group has recently recommended that the scheme be extended to other locations throughout Cambridgeshire.
- 6.63 West Yorkshire Trading Standards has developed several disruption initiatives to combat bogus traders. They are urging newspapers in the county not to take advertisements for property repairs such as tarmacking and roofing where the only contact is a mobile phone number and not to print the addresses of the recently bereaved in obituary columns. This has also been successfully piloted in North Yorkshire: the North of England Trading Standards Group hope to roll it out nationally.
- 6.64 To combat surplus road materials getting into the hands of bogus tarmacers, West Yorkshire have also stressed the importance to the local council of disposing of surplus road materials with care, so they do not get into the wrong hands.

Better intelligence collection

- 6.65 Bogus trading and distraction burglary offences have been very difficult to detect because of the mobility and sophistication of the perpetrators. Intelligence collection and information sharing is therefore seen by some agencies as a key element for catching offenders.

¹⁵⁴ www.acpo.police.uk

- 6.66 With this in mind, some trading standards departments and local police forces have set up separate databases to capture this data. Bromley Trading Standards, Cleveland police force (Operation Strongbow), South West police forces (Operation Litotes) and Operation Liberal have been among the first to do this.
- 6.67 Cleveland police, for Operation Strongbow, is co-ordinating and gathering intelligence on bogus officials, distraction burglaries and other aspects of artifice crime across the force. This also includes incidents where a person is deceived into parting with property, which as a payment is disproportionate to the goods or services delivered. All offences of this type must be entered onto crime reports and any information on the perpetrators must be submitted on an intelligence log.
- 6.68 Operation Liberal collates and distributes data on bogus traders and distraction burglars to 10 member forces.¹⁵⁶ The initiative was set up in 1998 to deal solely with distraction burglary. However, Lincolnshire police noted that bogus traders and distraction burglars are linked (they often work closely together, or are the same perpetrators), as a result they started to collect data on bogus traders too.
- 6.69 The offenders who commit these types of offences often travel long distances to seek out victims, so it is essential for authorities to share data with each other. One main incident room makes it easier to share information with all the forces. In fact, having a common crime recording and intelligence database across the forces is the main reason for the success of this project.
- 6.70 Another project that involves information sharing is Operation Litotes. It is run by police forces in the South West,¹⁵⁷ and is a crime-fighting consortium aimed at combating bogus callers, distraction burglars and bogus traders (offenders who travel across county borders to commit offences). They gather and disseminate all intelligence on artifice crime across the five police forces involved. They have a website which raises

¹⁵⁵ The scheme has been evaluated by Cambridge Trading Standards Department

¹⁵⁶ Operation Liberal includes the following police forces: Cambridgeshire; Derbyshire; Leicestershire; Nottinghamshire; South Yorkshire; Staffordshire; Warwickshire; West Midlands; West Mercia and Lincolnshire.

awareness among consumers and also has a members- only section which lists recent scams.¹⁵⁸

- 6.71 Though intelligence is shared, none of these initiatives are national despite the fact that doorstep criminals cover large distances.

Rapid response teams

- 6.72 A number of authorities have recently introduced Rapid Response schemes to deal with bogus trading complaints, particularly those from older or vulnerable adults. Authorities known to be operating such schemes are Kent, Surrey, West Yorkshire, North Yorkshire and Warwickshire. The scheme is being extended across the South East (via South East of England Trading Standards Group).
- 6.73 Surrey County Council launched their Rapid Action Team scheme in November 2003 to provide a quick enforcement response to calls on doorstep conmen. A trading standards officer is 'on call' to provide an immediate response. The two-week pilot showed promising results. During this period they had 30 calls and helped consumers make savings of around £12,500.
- 6.74 Cleveland Police, Operation Strongbow, has developed a trigger plan which outlines how the police should deal with the initial investigation of bogus trading and doorstep offences. This includes guidance to the operator in the control room, the first officer at the scene and scientific support e.g. forensics. It also details the minimum standards which must be adhered to for such offences.

Bank and building society protocols

- 6.75 In some of the worst cases, the most vulnerable are taken to the banks/building societies by bogus traders to withdraw large cash sums to pay for work. To tackle this, Kent trading standard and local police successfully raised awareness of this issue with local bank and building

¹⁵⁷ Devon and Cornwall police, Avon and Somerset police, Gloucestershire Police, Wiltshire police and Dorset Police

societies. Guidance has been developed to help banking staff identify potential victims of bogus trading and notify TSDs and the police, where appropriate. The British Banking and Building Society Associations have signed up to the protocol and the scheme is due to be rolled out nationally in June 2004.

- 6.76 Bank staff are urged to look out for vulnerable consumers who are making large one-off cash withdrawals. If they have concerns after speaking to the consumer they should call the local trading standards department or the local police station. These schemes have often been supported by local agreements and/or local leaflets/posters.

Approved trader and home improvement schemes

- 6.77 Some agencies believe that if the public, especially older adults, are to be persuaded not to use the services of door to door callers for home improvements, it is important that they are given advice on how to find reputable traders.
- 6.78 At a national level there is the DTI backed Quality Mark scheme offering consumers a tool to select reputable tradesmen, backed by an independent complaints mechanism and a comprehensive warranty.
- 6.79 At a local level, good trader schemes/home services directories have been introduced in some cases to support any doorstep crime initiatives. Good trader schemes operate with degrees of success. Some are run solely by the local authority, others in partnership with voluntary organisations. Successful schemes include:
- the York 'Home Services Directory' operated by Age Concern York in partnership with York Trading Standards and the Police; and
 - 'Buy With Confidence' scheme operated by Hampshire County Council
- 6.80 Croydon Trading Standards has introduced an approved Builders Charter Scheme for home improvement professionals. Torbay Trading Standards

¹⁵⁸ www.beattheboguscaller.com

has a similar scheme, which they operate with Age Concern. For both these certain minimum standards must be met for a trader to be included. For example, in Croydon traders must have been trading for at least a year to qualify. Torbay has introduced training courses for traders who wish to register, one of which includes an introduction from a police officer about Operation Litotes.¹⁵⁹

- 6.81 Home improvement agencies (which come under a variety of names such as StayPut, Care and Repair) offer a wide variety of support services to help people, particularly the elderly, to live independently in their homes in comfort and safety.
- 6.82 At a local level, the agencies provide advice to enforcement officers and householders, including 'Good Trader' lists. In a number of areas, these agencies will operate, or have access to, 'Handy Van' type schemes. These agencies do not operate in every area of the UK but their coverage is growing. Targets have been set to work towards full national coverage.
- 6.83 In addition, a national TSI/ Home Improvement Agencies partnership has been set up to develop a number of initiatives including the possibility of a good trader scheme/ home services directory and educational programmes especially for the elderly.
- 6.84 Help the Aged has helped develop Handy Van Schemes in partnership with social services, victim support, neighbourhood watch, doctors, Citizens Advice Bureaux, church groups and other organizations. The Handy Vans operate from selected locations throughout the UK and are able to carry out basic repairs for older adults.

¹⁵⁹ Further information can be found in Annexes N and O.

TSI and Law Commission proposals

6.85 Probably the most high profile initiative to deal with bogus traders is Trading Standards Institute's call to ban cold calling for property repairs, maintenance and home improvements.

6.86 Also relevant are two Law Commission proposals:

- Proposed new fraud offence. This was recommended by the Law Commission in 2002 and would replace the existing Theft Act deception offence under which some bogus trader prosecutions already take place.¹⁶⁰
- Proposed fraudulent trading offence for individuals. The Law Commission has also recommended that the company law offence of fraudulent trading should be extended to partnerships and individuals.¹⁶¹ The existing company law offence has been found useful in dealings with patterns of repeat offending.

These proposals are being taken forward shortly in a current Home Office consultation.

¹⁶⁰ Law Commission report on Fraud (report 276). (Law Commission recommendations apply to England and Wales. It would be for separate consideration whether parallel reforms were introduced for Northern Ireland. Different arrangements apply in Scotland)

¹⁶¹ Law Commission report on Effective Prosecution of Multiple Offending (report 277). Fraudulent trading offence at section 458, Companies Act 1985. (Law Commission recommendations apply to England and Wales. It would be for separate consideration whether parallel reforms were introduced for Northern Ireland. Different arrangements apply in Scotland)

SECTION 3: CONCLUSIONS AND RECOMMENDATION

Cooperation/ best practice at local level

- 6.87 Whether using existing powers or new ones, good cooperation between police and TSDs is crucial to tackling bogus traders. Because complaints may come into either organisation, information needs to be shared between them. There will often be enforcement options based on consumer protection legislation; this is TSDs' responsibility but they may well need police assistance, for example in identifying or tracing bogus traders. However, many of these cases should at least be considered for prosecution under the Theft Act: that is primarily a police responsibility (TSDs can undertake such prosecutions but again may well need police assistance).
- 6.88 In any event there needs to be a sharing of intelligence, for example about bogus traders operating in the area, and this needs to extend to distraction burglars (where enforcement is a police responsibility) as it is often the same individuals who are involved. Police and TSD's need to work closely together, for example on rapid response teams. Other agencies/organisations can usefully join up with police/TSD cooperation and make valuable contributions on, for example consumer education or schemes to look out for cash withdrawals associated with bogus trading (local Crime and Disorder Reduction Partnerships can often have a part to play in developing multi-agency working on such matters). Some of the more specific schemes, for example on cash withdrawal, are being extended to a national level.
- 6.89 This report sets out examples of excellent cooperation. However it is not universal and often cooperation schemes have strengths but can learn from others. We wish to see such cooperation continue to grow, with police forces and trading standards departments working together in their areas to tackle bogus trading, to share intelligence that will also help to tackle distraction burglary, to devote sufficient resources to this to make it effective, to involve other agencies as appropriate, and to learn from successful experience in other schemes.

Coordination at national level

- 6.90 Good local cooperation will not achieve the success it deserves unless it is backed by coordination at a national level. There needs to be a powerful focus within Government to tackle the twin problems of bogus trading and distraction burglary. We very much welcome the suggestion for a cross-Departmental Ministerial Group to examine the problem.¹⁶²
- 6.91 Among other things, a limited-life group could provide impetus to put the best of local/regional initiatives on a national basis (for example perhaps a national database on bogus trader/distraction burglar intelligence should be set up, given that the perpetrators travel long distances). It may also wish to look at the question of priority and resources devoted by TSDs and the police to working together in this area (the National Policing Plan emphasises partnership with other agencies) and the extent of local commitments on cooperation.¹⁶³

Legislation

- 6.92 Cooperation, coordination and spread of best practice will help to address bogus trading but will not, on their own, be sufficient to deal adequately with the problem. We consider that underlying legal powers need to be strengthened. **We therefore recommend that Government should pursue legislative options for tackling bogus traders**, as mapped out below.

Proposed new fraud offence

- 6.93 The draft bill in the Law Commission's report on Fraud contains provisions on 'Fraud by false representation' and 'Fraud by wrongfully failing to disclose information', each of which might be used to tackle bogus traders.¹⁶⁴ The proposed new offence has features that may be of assistance in prosecuting bogus traders (and other consumer scams), for example removal of the need to adduce evidence that the deception operated on the mind of the victim. It would no longer be necessary to

¹⁶² Gerry Sutcliffe, Parliamentary Under-Secretary of State for Trade and Industry: Westminster Hall Adjournment Debate, 3 March 2004.

¹⁶³ National Policing Plan: Home Office, November 2002

¹⁶⁴ The proposals are being taken forward shortly in a Home Office Consultation

prove that the trader's dishonest and false representation was the effective cause of loss. **We therefore support legislation on the proposed new fraud offence as a useful addition to consumer protection.**

Proposed fraudulent trading offence for individuals

- 6.94 The Law Commission recommended that the Companies Act fraudulent trading offence be replicated for individuals. The existing company law offence has been used for consumer protection but more for areas such as creditor and shareholder protection. It may well be that applying such an offence to individuals, with its ability to deal with patterns of offending, could be useful in tackling bogus trading. Potentially it has greater benefit across a wider range of consumer protection. Development is needed, for example on enforcement arrangements, which are likely to be different from the company law offence.¹⁶⁵ **We therefore support legislation on a fraudulent trading offence for individuals, subject to consideration of responses received in the Home Office consultation.**

Possible ban on work and/or payment within 7 days following a cold call

- 6.95 It will not be straightforward to frame changes to the Doorstep Selling Regulations to address the existing undermining of the 7-day cooling off period, as recommended in chapter 5. A ban on work and/or payment within 7 days following a cold call would, for example, need exceptions for urgent work. This would in any event need to be the subject of a DTI consultation. It will be more difficult to take changes further, for example with stronger enforcement measures and sanctions, and thus make it effective against bogus traders. But a feature of bogus trading is the extraction of immediate payment and it is worth exploring in depth whether a 7-day ban on work/payment could be an effective means of tackling it. **We recommend that DTI consultation on a possible ban on work and/or payment within 7 days should explore whether it could also be made an effective means of dealing with bogus traders.**

¹⁶⁵ see above

Possible ban on cold calling for property maintenance/repairs

- 6.96 There can be no guarantee that any of the three measures above can be framed in ways that would make it (or a combination) go far enough in tackling the problem of bogus trading. This raises the question of a possible ban on cold calling for property maintenance/repairs.
- 6.97 A cold calling ban would have clear advantages for enforcement (for example in not requiring complex evidence of intent). But we recognise the difficulties and issues associated with legislating for a ban, including:
- justifying a criminal offence that would catch activity that was not harmful along with the harmful activities;
 - how to avoid harm to legitimate business or potentially creating barriers to entry;
 - considering whether there was sufficient justification for making the offence arrestable, or for including prison among the available penalties: but if not, whether the ban would provide the improvement looked for in enforcement and deterrence;
 - how cold calling should be defined, and what would constitute prior arrangement;
 - what the scope of property maintenance/repair should be; and
 - whether a ban might, at some point in the future, be in conflict with whatever emerges from negotiations on an Unfair Commercial Practices Directive
- 6.98 Some (though not all) of these difficulties might be addressed by alternatives that could be considered in a consultation exercise (for example coverage, exemptions etc)
- 6.99 It is at present unclear whether the balance of advantages and disadvantages argues for a ban on cold calling for property maintenance/repairs. However, **we recommend that DTI should consult on the option of such a ban and on specific issues and alternatives involved.**

Data collection and recording

6.100 This report has noted that no reliable figures are available for bogus trader incidents. Such data would be valuable in understanding the problem, in establishing trends, and in justifying resources devoted to tackling it. **We therefore recommend that DTI should introduce codes for bogus trading in the coding system for its new Consumer Direct telephone helpline service.** These codes would then also be used by TSDs and the OFT, providing for the first time reliable information on the extent of bogus trading. It would also be helpful if, in special exercises or more generally, police were able to record all incidents reported to them that fall within a similar bogus trading category.¹⁶⁶

¹⁶⁶ See also paragraph 6.25

SUMMARY OF RECOMMENDATIONS

Consumer protection

We recommend that the Doorstep Selling Regulations be amended to require notice of cancellation rights and how they may be exercised to be prominently and clearly displayed in the contract, with a clear indication of the circumstances in which cancellation rights can be lost.

We recommend that DTI should legislate to give a cancellation right in all sales which take place away from business premises, whether or not the sales visit which gave rise to it was solicited by the consumer.

We recommend that to avoid the undermining of cooling off periods DTI should consult on the removal of the right to recover payment in regulation 7(2)(iv) of the doorstep selling regulations or a possible ban on work and/or payment within seven days for contracts concluded following at least an unsolicited visit, subject to limited exceptions.

Informing consumers

We intend to run a national consumer education campaign to provide consumers with information on their rights when buying via doorstep selling, to encourage the benefits of shopping around and to inform them about the psychological techniques used by salespeople with advice on how to combat them.

We intend to run this campaign in concert with partners representing consumer groups in order to achieve the maximum impact.

We would like to see firms selling on the doorstep providing greater transparency on prices for their products and a greater willingness to provide written quotes. We would expect to see this requirement included in any Consumer Code seeking approval from the OFT.

Bogus trading

We recommend that Government should pursue legislative options for tackling bogus traders. In particular:

- that it should proceed with legislation on the proposed new fraud offence, based on the draft Bill set out in Law Commission report 276¹⁶⁷ and the Home Office's planned consultation paper

¹⁶⁷ Law Commission report on Fraud (report 276). (Law Commission recommendations apply to England and Wales. It would be for separate consideration whether parallel

- that it should proceed with legislation on a fraudulent trading offence for individuals, as proposed in Law Commission report 277, subject to consideration of responses received on this in the planned Home Office consultation
- that DTI consultation we have proposed on a possible ban (and potential exceptions) on work and/or payment within seven days of a cold call should explore whether it could also be made an effective means of dealing with bogus traders
- that DTI should consult on the option of a ban on cold calling for property maintenance/repairs and on specific issues and alternatives involved in such a possible ban.

We recommend that DTI should introduce codes for bogus trading in the coding system for its new Consumer Direct telephone helpline service, which would then become part of the system also used by TSDs and the OFT.

reforms were introduced for Northern Ireland. Different arrangements apply in Scotland).

GLOSSARY

Bogus trading

Bogus trading occurs when consumers (often the elderly or vulnerable) are cold-called and tricked or pressurised into paying large sums for shoddy goods or services. There are other examples of bogus trading but property maintenance (eg roofing or tarmacking) covers a high proportion of cases and almost all the high value cases.

Codes of practice

An agreement that certain trades or professions can sign up to in which they agree to act or serve in a certain way and which may protect the consumer in areas. These codes are self-regulated, for example by a trade association.

Cold calling

A practice used by salespeople who call on consumers or who telephone consumers with the view to selling a product without having made any prior appointment. (see unsolicited visits)

Consumer Codes Approval Scheme (CCAS)

CCAS allows the OFT to approve and withdraw approval from codes against published criteria – and promote approved codes using an official logo. The aim of the CCAS is to achieve effective voluntary codes of process governing business dealings with consumers. This scheme is made up of two interdependent stages.

Distraction Burglary

Any crime where a falsehood, trick or distraction is used on an occupant of a dwelling to gain, or try to gain, access to the premises to commit burglary

Doorstep Selling Regulations

The Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 [as amended by The Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) (Amendment) Regulations 1988 and 1998]

Doorstep selling

For the purposes of our study we have defined doorstep selling as the sale of goods or services where the contract is concluded face to face in the consumer's home or on the doorstep. We have not considered the full range of contracts covered by The Doorstep Selling Regulations.

EnergySure

EnergySure is an initiative which seeks to promote best practice in energy selling. The scheme grants official, nationally accepted recognition and accreditation to energy sales agents - both electricity and gas.

Low value purchases / products

For the purposes of this study we have defined low value purchases contracts to products under the value of £35 which are not covered by the Regulations.

Mid value purchases / products

For the purposes of this study we have defined mid value purchases to products valued between £35 and £500.

High value purchases / products

For the purposes of this study we have defined high value purchases to products in excess of £500.

Solicited visit

This is where the consumer actively initiates the visit by the salesperson. For example by responding to an advert or mail shot.

Unsolicited visit¹⁶⁸

A visit by a trader which takes place without the express request of the consumer. This also includes any subsequent visits which followed from an earlier unsolicited visit.

A requested visit will be "unsolicited" if the trader introduces "new" goods or services during the visit.

¹⁶⁸ Defined in Regulation 3(3) Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987

A visit agreed by the consumer subsequent to an unsolicited telephone call from the trader.

ACRONYMS

ACPO – Association of Chief Police Officers

CAB - Citizens Advice Bureau

CCAS – Consumer Codes Approvals Scheme

DoH – Department of Health

DSR - Doorstep Selling Regulations

DTI – Department of Trade & Industry

EU – European Union

LACORS – Local Authorities Coordinators of Regulatory Services

NACAB – National Association of Citizens Advice Bureaux (now known as Citizens Advice)

ODPM – Office of the Deputy Prime Minister

OFGEM – The Office of Gas and Electricity Markets

ONS – Office of National Statistics

SETSA – South East Trading Standards Authority

TSD – Trading Standards Department

TSI – Trading Standards Institute

TSO - Trading Standards Officer

UCPD – Unfair Commercial Practices Directive

REFERENCES

Government Paper

DTI's Fair, Clear and Competitive: the Consumer Credit Market in the 21st Century, Cm 6040, December 2003, and DTI's Establishing a Transparent Market: a consultation on proposals for regulations.

Tackling Distraction Burglary, Distraction Burglary Taskforce, Home Office, December 2002.

National Policing Plan: Home Office, November 2002

Regulators

Law Commission report on Effective Prosecution of Multiple Offending (report 277). (Law Commission recommendations apply to England and Wales. It would be for separate consideration whether parallel reforms were introduced for Northern Ireland. Different arrangements apply in Scotland).

Law Commission report on Fraud (report 276). (Law Commission recommendations apply to England and Wales. It would be for separate consideration whether parallel reforms were introduced for Northern Ireland. Different arrangements apply in Scotland).

OFT response to the super complaint made by the National Association of Citizens Advice, 11 November 2002. The full text of our formal response can be found on our website at www.oft.gov.uk

Research conducted for Ofgem by MORI "Experience of the Competitive Market", January 2001 and "Attitudes to Price Information Qualitative and Quantitative Research", March 2001

Data reported in Ofgem's consultation on Licence condition 48, "The regulation of gas and electricity sales and marketing". Research conducted in the summer of 2002 by Accent Marketing and Research. 200 consumers from England, Scotland and Wales who has experiences direct selling within the previous four months were asked about their attitudes and experiences.

Ofgem's Consultation: "The Regulation of gas and electricity sales and marketing; a review of standard licence condition 48- 87/03, August 2003".

Ofgem's Application Handbook 1- Overall Guidance, Nov 2003.

Ofgem's Press releases: "[London Electricity faces £2 million financial penalty](#)", 9 October 2002 and "[Ofgem confirms £2m penalty on London Electricity](#)", 11 November 2002.

OFT position paper *Legislative options for tackling bogus trading* (OFT 704, 4 March 2004) - The full text of our formal response can be found on our website at www.offt.gov.uk

Ofgem's "The regulation of gas and electricity sales and marketing: proposals for the amendment of standard licence condition 48", December 2003"

Non Government Papers and Research

Sharp Selling practices, Age Concern, March 2002

Door to door, CAB clients' experience of doorstep selling, Citizens Advice Bureau, September 2002

IRN report for OFT (unpublished), based on various market reports and own research

NACAB "The Fuel Picture" June 2002. NACAB carried out analysis on complaints on energy suppliers its Bureaux had received since March 2001 in England, Wales and Northern Ireland. The report is based on evidence from over 3400 individual bureau evidence reports.

"The Formulation of a Strategy to Prevent and Detect Distraction Burglary Offences Against Older People" by Ex-Detective Chief Superintendent Brian Steele

Trading Standards Institute – Door to door cold calling of property repairs, maintenance & improvements, April 2003

Vickers, J; Economics for consumer policy: British Academy Keynes lecture, October 2003 www.offt.gov.uk.

Trading Standards Institute – Door to door cold calling of property repairs, maintenance & improvements, April 2003

Regulations

The Unfair Terms in Consumer Credit Contract Regulations 1999

Privacy and Electronic Communication Regulations 2003 (EC Directive) – Regulation 21 The Telephone Preference

The Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 [as amended by The Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) (Amendment) Regulations 1988 and 1998]

Legislation

Consumer Credit Act 1974

Theft Act 1968

Sale of Goods Act 1979

The Supply of Goods and Services Act 1982

The Enterprise Act 2002

Websites

Ofgem's website www.ofgem.gov.uk

DTI's website <http://www.dti.gov.uk/ccp/cdinfo/index.htm>.

Doorstoppers–“Say no to Doorstep callers” website
www.doorstoppers.info

Distraction Burglary website
www.crimereduction.gov.uk/boguscaller1.htm

ACPO website www.acpo.police.uk

Beat the Bogus Caller website www.beattheboguscaller.com

Gateway to the European Union website <http://www.europa.eu.int/>

Consumer Support Networks' website <http://www.csnconnect.org.uk/>