

Web sweep analysis

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EXECUTIVE SUMMARY

Internet shopping is bringing huge benefits to millions of consumers and thousands of businesses. The scale and growth of internet shopping is impressive. Internet retailing is growing at about 30 per cent each year, and in 2007 was likely to be worth over £30 billion.

In June 2007, we published our market study of internet shopping. One of the study's main findings was that most consumers had little awareness of their rights when shopping online. The Study also reported that many businesses had a low awareness of online shoppers' rights and that some were not complying with the relevant regulations.

We followed up the 2007 Study by improving the information available to UK consumers shopping on line. We made better information available via Consumer Direct and improved the distribution of this information by working with the Consumer Education Alliance, top Internet auction sites and key price comparison sites. We took similar steps to improve information for businesses.

This report is the final part of the series of follow up actions. It details the results of a joint exercise between the OFT and officers in 90 Local Authority Trading Standards Services (TSS) to look at the compliance with regulations of the top retail websites selling to UK consumers.

The aim of this exercise was to further increase business awareness of online shoppers' rights – this report has been sent to over 400 UK-based retailers whose sites were examined. The exercise also helped TSS reviewers to check sites quickly and consistently, and to liaise with other authorities. Reviewers planned follow-up action for 152 (35 per cent) of the sites they assessed.

The results suggest that most large online retailers are complying with key consumer protection requirements (the Distance Selling and E-Commerce Regulations). However, the sweep also identified that there is room for improvement in some areas including, in particular, cancellations and refunds, and contact details and transparency:

- 14 per cent of sites appeared not to comply with regulations by providing no physical address or providing only a PO Box number

- 15 per cent of sites appeared not to comply with the requirement to give shoppers information on their right to cancel within 7 working days
- 31 per cent of the sites appeared not to comply with the requirement to refund the full cost of the goods and, of these, 56 per cent excluded the cost of original delivery from refunds, and
- 40 per cent of sites did not indicate that compulsory additional charges would be added when the price was first shown, but subsequently included such charges at checkout.

1 INTRODUCTION

- 1.1 In the first two weeks of December 2007, the OFT worked with Local Authority Trading Standards Services (TSS) to carry out a web sweep of the UK's top retail websites. The aim was to assess the extent to which these sites were complying with some of the key requirements of online shopping laws.
- 1.2 This report sets out the background to the web sweep, how it was conducted and the key findings.
- 1.3 We are very grateful to colleagues who helped to develop the sweep, and in particular the officers in TSS across the UK who took the time to participate and record their findings.

2 BACKGROUND AND AIMS

2.1 In June 2007, the OFT published its market study of internet shopping.¹ One of the study's main findings was that most consumers had little awareness of their rights when shopping online. The Study also reported that many businesses had a low awareness of online shoppers' rights and that some were not complying with the relevant regulations. In addition, it identified that the anonymity and borderless nature of the internet posed particular challenges for the enforcers of shoppers' rights.

Buying online: consumer rights

2.2 Anyone buying online from a UK-based business has at least the same rights as if they were buying on the High Street (and similar rights when purchasing from other EU Member States).

2.3 UK-based online retailers should therefore be complying with a wide range of regulations including, amongst others, the:

- Sale of Goods Act 1979
- Data Protection Act 1998 (DPA), and
- Unfair Terms in Consumer Contract Regulations 1999 (UTCCRs).

2.4 However, people shopping at a distance cannot physically examine what they are buying and may have no direct contact with the seller. To help shoppers overcome some of these potential disadvantages, two regulations, in particular, provide consumers with **additional** rights (See **Annexe 1** for a more detailed summary):²

- The **Consumer Protection (Distance Selling) Regulations 2000 (DSRs)** give buyers:
 - a right to know who they are dealing with, and key information about what they are buying,

¹ Internet shopping: an OFT market study (OFT, June 2007)
www.of.gov.uk/advice_and_resources/resource_base/market-studies/internet

- an unconditional right to cancel within seven working days (for many items),³
 - a right to receive a full refund, and
 - protection against online payment card fraud.
- The **Electronic Commerce (EC Directive) Regulations 2002 (ECRs)** also require businesses to, among other things, provide an email address for direct and effective communication.

Online shoppers' rights: awareness, compliance and enforcement

2.5 The 2007 market study found that more than half (56 per cent) of the internet shoppers surveyed online did not know about their right to cancel, and many (29 per cent) also did not know where to turn to get advice on their rights.⁴

2.6 As well as finding that most shoppers had little awareness of their additional rights when buying online, the 2007 market study reported that many online retailers had a low awareness of these additional rights and some may not be addressing them. In particular:

- 28 per cent of online traders said that they were unaware or only slightly aware of the laws applying to internet shopping, and 67 per cent had never sought advice on them,⁵
- at least one fifth of sites examined (20 per cent) did not provide an email address as required by the regulations,
- one fifth (20 per cent) of online electrical retailers did not think that buyers had an unconditional right to cancel,⁶

² In the time available, the market study did not address all regulations relevant to online shopping. Instead, like the web sweep discussed in this report, the Study focused on the regulations with particular relevance to internet shopping – especially the DSRs.

³ Exceptions to the right to cancel are set out in Regulation 13(1).

⁴ See Annexe H, Internet Shopping: An OFT market study (OFT, June 2007) http://www.of.gov.uk/advice_and_resources/resource_base/market-studies/internet.

⁵ See Annexe J, Ibid

⁶ See Annexe J, Ibid

- nearly one in six (16 per cent) of electrical retailers' sites did not appear to mention a cancellation period, or gave a shorter period than required,⁶ and
- a majority of sites (59 per cent) appeared to impose conditions that could prevent or at least deter consumers from exercising their cancellation rights.⁷

2.7 In terms of the enforcement of consumers' rights, the market study found that enforcement officers faced particular challenges in addressing online shopping. It noted that the rapid pace of technological change, coupled with the range of parties that may have an involvement in a transaction, can also make it a potentially complex environment in which to conduct investigations.

2.8 In particular, the current enforcement structure is based on the traditional model of commerce where a business has a physical presence locally and is easily identifiable, and where the business usually has a local clientele. Also, under the Home Authority Principle (HAP) a business operating across the UK should be able to rely on a single local authority for regulatory advice and support.⁸ However, internet traders generally sell across local and regional boundaries and not all of them have retail premises. Local authority TSS may therefore be unaware of which internet traders are based in their area.

2.9 The Study identified some promising examples of proactive enforcement work, for instance to assess compliance; to liaise with the internet industry to obtain information on traders; and to co-ordinate activities with other enforcers to achieve successful outcomes. However, it concluded that good practice could be spread across the whole country, and that there was potential for greater co-operation between enforcers to assist consistency in how they assess and deal with problems related to internet traders.

⁶ See Annexe L, Ibid

⁷ See Annexe L, Ibid

⁹ For example, a multi-site retailer who seeks guidance from one local authority on product labelling, should feel assured that if the guidance is followed, it will not be challenged in any of its individual outlets by other local authorities.

Follow up to the market study

2.10 On publishing its Study, the OFT committed itself to working with partners over the next six months, to help raise awareness of the regulations, and assist compliance and enforcement. From July to December 2007, therefore, the Office undertook a number of activities, which also aligned with the distance shopping theme of National Consumer Week in November 2007,⁹ including:

- preparing a range of summary materials to supplement existing OFT guidance documents, integrated into the Consumer Direct web site, including:¹⁰
 - tips for consumers shopping online, and tips for shopping at online auctions, and
 - a consumer quiz, to raise awareness of the main rights.
- updating the OFT's advice to business web pages, including a summary of key regulatory requirements, and advice for small firms on online security,¹¹
- working with the Consumer Education Alliance¹² to distribute advisory materials through web sites and more generally,

⁹ National Consumer Week, an annual event organised by the Trading Standards Institute (TSI), is a platform to raise awareness about specific consumer issues and particularly to highlight new developments in an increasingly complex and competitive marketplace. It profiles the work of and is supported by local authority trading standards services across the UK. In 2007, the theme of National Consumer Week (12-19 November), run in association with Consumer Direct, was 'Shopping From Afar? Know What Your Rights Are!'. See: <http://www.tsi.org.uk/events/index.htm?frmClient=20E2871F-D8F0-4633-A15DB955F1E545C4&frmItemID=218056&frmShared=1>. See also: <http://www.dti.gov.uk/about/ministerial-team/page42428.html>.

¹⁰ The advice for shoppers is at: http://www.consumerdirect.gov.uk/before_you_buy/online-shopping/national_consumer_week_tips

¹¹ Advice for businesses is at: http://www.offt.gov.uk/advice_and_resources/small_businesses/distance-selling/

¹² The Alliance oversees and enables the development and delivery of a planned, targeted and high-quality consumer education programme for the UK. It aims to coordinate consumer education activities across England, Wales, Scotland and Northern Ireland. The OFT provides administrative support to the Alliance and is responsible for applications for membership. See: http://www.offt.gov.uk/offt_at_work/partnership_working/consumer-alliance/alliance/alliance-work.

- securing the agreement of the top five auction sites in the UK to provide information to consumers about their rights under the DSRs and to provide clearer identification of traders (the DSRs only apply to business-to-consumer sales and only clearly apply to buy it now sales by businesses),¹³ and
- securing the agreement of key price comparison sites to give consumer advice and links to guidance on Consumer Direct.

The web sweep

2.11 As part of our follow-up activities, we also announced plans during National Consumer Week for a co-ordinated compliance review of many of the top online retail sites selling to UK consumers.¹⁴ While most previous internet sweeps have focused on detecting scams, the purpose of this sweep was to check that genuine retailers' sites were giving shoppers the information to which they are entitled under consumer protection law – in particular, when selling at a distance.

2.12 As well as aligning with the theme of National Consumer Week, the intention was that this sweep would help to:

- raise the profile of online shoppers' rights in the run up to the busiest shopping period of the year,¹⁵
- focus on the sites run by the largest retailers, responsible for a large proportion of online sales to UK consumers,
- enhance the co-ordination of enforcement across local boundaries, by assisting communication between authorities,
- enable enforcers to develop and apply their knowledge, as well as to adopt a consistent approach to compliance testing by providing common tools, guidance and materials, which could be used in the future, and

¹³ See the press release at: <http://www.offt.gov.uk/news/press/2007/155-07>. The application of the DSRs to online auction sites was considered in the Internet Shopping report at 10.35ff.

¹⁴ See the press release at: <http://www.offt.gov.uk/news/press/2007/161-07>.

¹⁵ Forrester Research, an independent technology and market research company, reported that UK users were expected to spend around £14billion in online sales or £501 each during

- assist enforcers to provide targeted advice when websites appeared not up to the mark.
- 2.13 The sweep focused on the rights provided by the DSRs and ECRs, and on pricing transparency. It was not intended as a 'name and shame' exercise. However, a key element of the process was the opportunity for TSS officers to follow up any potential breaches with the Home Authority for the retailers if they chose to. The OFT asked respondents to identify Home Authorities for each site wherever possible, and provided them with some supporting materials to assist them in making contact and listing possible breaches for further investigation.
- 2.14 Following piloting in November 2007, the sweep was co-ordinated centrally by the OFT and conducted by officers in 90 local authority TSS between 3 and 14 December 2007.
- 2.15 Each participating TSS was allocated six sites to check, drawn randomly from a list of the top 600 sites (generated from a Hitwise¹⁶ list of the retail sites most visited by UK internet users). TSS reviewers completed an online questionnaire for each site, with the assistance of detailed guidance. An explanation of the methodology can be found in **Annexe 6**.

Christmas 2007. Source: 'Europe's 2007 Christmas: An Online Retail Wonderland', Forrester Research, October 2007.

¹⁶ Hitwise monitors web traffic trends of more than 500,000 websites across 160 industries in the UK. Website visits provide a measure of a website's success and popularity.

3 WEB SWEEP FINDINGS

Introduction

- 3.1 This Section sets out some of the key findings from the web sweep (**Annexe 6** includes some additional analysis).
- 3.2 Although the assessments – which focussed on a few key indicators – represent a snapshot at a specific point in time, the results relate to retail websites most visited by UK consumer, and therefore the potential experiences of a large proportion of UK internet shoppers.
- 3.3 The assessments represent the expert judgement of TSS officers, but given the number of participants and the inevitable time limits placed on the assessments there may be some variations in how different officers might have assessed sites
- 3.4 The nature of the exercise, of course, had its limitations – please see **Annexe 6** for further details, including the limitations on making inferences to websites generally.
- 3.5 Finally, in the following analysis, we refer in some places to the findings of the 2006 web sweep exercise conducted as part of the Internet Shopping market study.¹⁷ However, care must be taken when comparing the two sets of findings, because of significant differences in methodology and purpose, as well as the length of time that has passed since the exercise was conducted for the market study.¹⁸ References to the findings from the 2006 sweep are therefore intended as illustrative only.

¹⁷ 'Research into Internet Shopping: Website Comparisons' (OFT 9211, August 2007). See: http://www.ofc.gov.uk/shared_ofc/reports/consumer_protection/ofc9211.pdf

¹⁸ The web sweep exercise for the market study was conducted in 2006 – well before the TSS web sweep described in this Report. Furthermore, its method of selecting sites was very different because it focused on just three market sectors (electrical items, music and flights), and sites were chosen according to a process of searching for example links to specific items, rather than focusing on the sites of the biggest retailers. Finally, the 2006 work looked at many other aspects than compliance and the reviews were conducted by independent assessors acting as informed consumers, rather than by TSS officers with expertise in consumer protection and enforcement.

TSS participation

3.6 Of the 198 TSS across the UK, 100 (51 per cent) agreed to participate, meaning that a maximum of 600 sites might be assessed in the exercise (provided all authorities were able to participate and to check all the sites allocated to them). Ultimately, 146 officers in 90 TSS participated in the exercise, representing every Region, and reporting on a total of 530 retail websites.¹⁹

The sites and products covered by the analysis

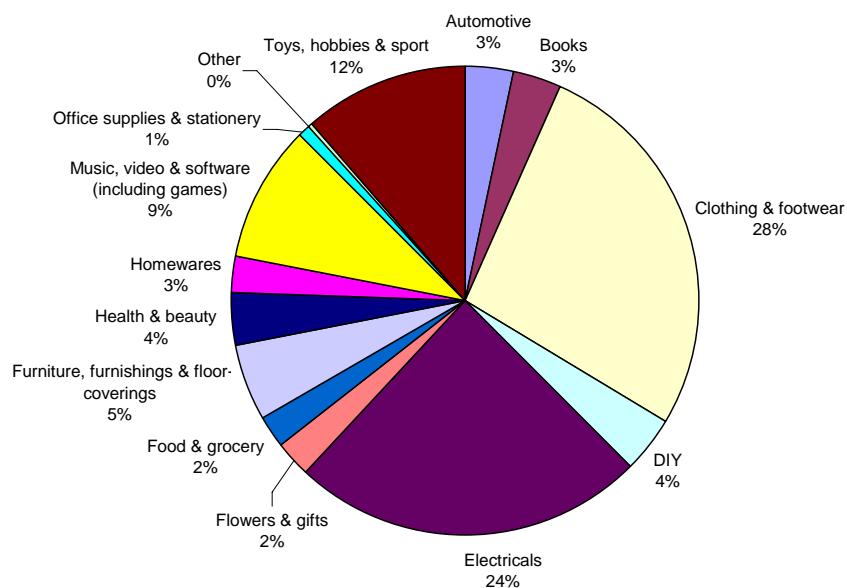
3.7 A small number (31) of the retailers whose sites were assessed were based outside the EU and therefore are not subject to EU regulations on internet shopping. We did not assess whether these sites were complying with applicable legislation, but we do consider the extent to which the level of consumer protection offered on these sites compared with those of the EU-based sites.

3.8 Our analysis therefore focused mainly on 499 sites where the retailer was based in the UK (485 sites) or elsewhere in the EU (14 sites). However, 60 of these 499 sites were excluded from the analysis, because they did not allow UK consumers to buy from them, redirected shoppers to another site, only sold to businesses, or only allowed orders to be made offline. The following analysis therefore uses as its base the **439** sites where the retailer was based in the UK or another Member State and their site enabled UK consumers to order products online.

3.9 The assessed sites traded a wide variety of products, the large majority (95 per cent) of which were defined by respondents as 'goods'. Over half of the products assessed involved Clothing and Footwear (28 per cent) or Electrical (24 per cent) items. **Figure 1** below gives a full breakdown of the type of products checked.

¹⁹ Ten of the assessments allocated to the participating TSS were not completed. There is no reason to suspect that the 70 sites for which assessments are missing should be systematically different from those that were checked.

Figure 1: Products assessed



Notes:

1. Base: All businesses that sell online (n = 439)
2. Analysis excludes missing answers

Analysis of EU-based sites

Provision of business contact details

3.10 Although 94 per cent of sites listed a physical address on their site, six per cent gave no physical address and eight per cent had provided only a PO Box address. We estimate therefore that around 14 per cent of the sites may not have been complying with the regulations, by providing no physical address or only providing a PO Box number.²⁰

3.11 Furthermore, the TSS web sweep found that 34 per cent of the sites may be breaching regulations by not providing an email address. Most of these provided only a web form, which strictly does not meet the requirements of the ECRs.²¹ In particular, only 29 per cent of the top-20 Hitwise sites

²⁰ The DSRs require the supplier's address to be given when payment in advance is required under the contract (Regulation 7 (1) (a)(i)). The ECRs also require that the geographic address at which the service provider is established is given (Regulation 6(b)).

²¹ Whilst a web form may be a convenient means of communication in some situations, the ECRs require the service provider to make available to the recipient of the service, in a form and

provided an email address, while the remaining 71 per cent supplied a web form only.²² There may be a number of reasons for their more frequent use of web forms, including greater use of the software required, a means of handling large volumes of correspondence, or a way of avoiding spam. However, it may also make it harder for consumers to maintain and record their contact with retailers in the event of a problem.

3.12 Some TSS respondents also commented on how easy they found it to locate contact details and other information on specific sites. These comments indicate that some sites are very effective in providing information:

- 'Site was easy to navigate and find required information'
- 'Well informed site - good question and answer section'
- 'Terms and Conditions in plain English, good information'
- 'Easy to navigate and locate information'
- 'The site displays a lot of information regarding regulations and how they stay compliant; there are also updates of their policies such as returns policy...it is quite complicated to find. However there are lots of contact details for a customer to contact the company if they required help'

3.13 Other respondents, however, reported that sites could do better:

- 'The contact details are 'hidden' under 5 levels which themselves are obscure. I would not go to this level before deciding that the details were not there'
- 'Very un-consumer friendly site format'
- 'This web site only has a mail form contact and this is specifically for requesting a brochure, so is considered inadequate'

manner which is easily, directly and permanently accessible, his name, geographic address and his details, including his electronic mail address, which make it possible to contact him rapidly and communicate with him in a direct and effective manner. In our view, a web form without an electronic mail address will not satisfy this requirement.

²² In this report, in the absence of detailed data on online sales for all the retailers, we have used number of visits (Hitwise) data as a proxy for size of retailer.

- 'Although the terms and conditions seem to be broadly compliant with relevant legislation they were quite tricky to find (no 'contact us' option - had to look in 'Help' then trawl through to find relevant pages)'
- 'At no point in time could I find a geographical address, only a PO box address. It might have been there somewhere, but if I could not find it would be difficult for a consumer to locate it'
- 'Again a major retailer places their geographic contact details deeply inside their site's terms and conditions instead of including it in their link which says 'contact us'. Makes it very difficult for non IT-orientated people who want to write the company a letter to find the details'

3.14 While not directly comparable, these findings are similar to those of the review conducted for the market study, which found that:

- 93 per cent of electrical retailers' sites provided a full geographical address, but only 80 per cent of music retailers' sites and 73 per cent of sites selling airline tickets did so
- 20 per cent of electrical retailers' sites, 39 per cent of sites selling flights and 46 per cent of music retail sites may have breached the regulations by apparently not providing an email address.

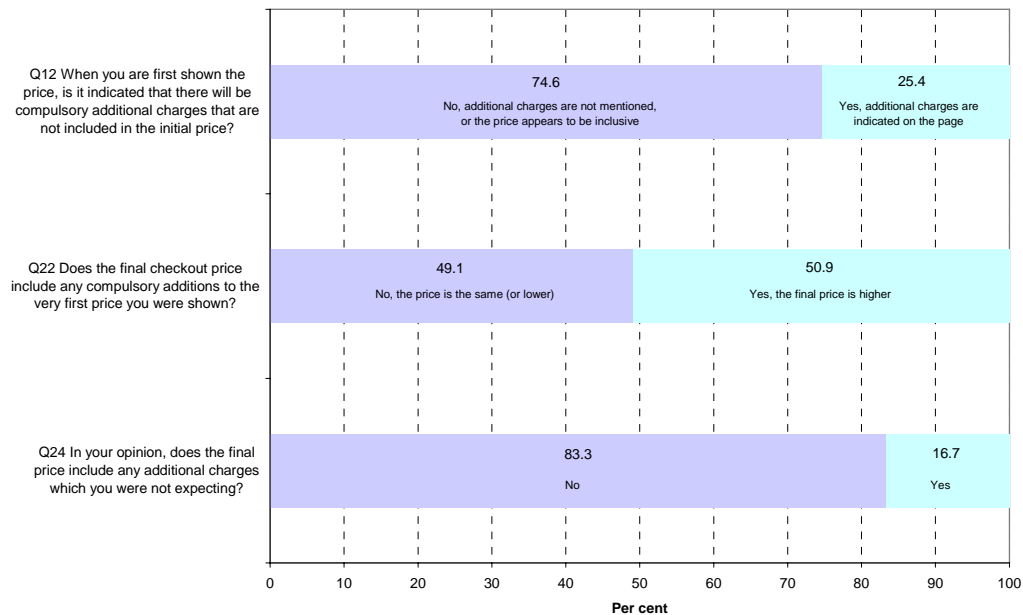
3.15 Overall, the web sweep supports the findings of the earlier market study – that, although there is a high degree of compliance, some sites provide insufficient contact details, and some could do so more clearly. The TSS web sweep findings suggest that this is not confined to smaller retailers. Low awareness and non-compliance in providing contact details may be a concern, given that problems contacting or communicating with traders was the second most cited difficulty for consumers who had experienced a problem buying online in the 12 months to November 2006 (14 per cent).²³

²³ See Annexe H, Internet Shopping: An OFT market study (OFT, June 2007) http://www.offt.gov.uk/advice_and_resources/resource_base/market-studies/internet.

Additional charges

- 3.16 In the TSS web sweep, on more than half (51 per cent) of the sites, the final price for the product assessed was higher than the price initially quoted, as a result of a compulsory charge.
- 3.17 Again, while these findings are not directly comparable with those of the market study, the finding that final prices were higher than initial prices in 51 per cent of cases is similar to the 2006 review which noted a higher final price in:
- 38 per cent of searches involving hard copy CDs,
 - 47 per cent of cases involving flight sales, and
 - 62 per cent of cases involving electrical items.
- 3.18 The proportion of sites that were recorded as not indicating that compulsory charges would be added to the price (when the price was first shown), but subsequently included such charges at checkout, is an indicator of the extent to which shoppers might experience charges they may not have expected. Of all the sites assessed, 175 (40 per cent) followed such a practice for the product reviewed. Sites where the products assessed were Health and Beauty, and Clothing and Footwear most frequently appeared to add compulsory charges by the final checkout without indicating so when the price was initially quoted. The largest retailers, in terms of Hitwise ranking, appeared to use such practices less frequently.
- 3.19 As another measure to the one described above (which asked TSS to record changes), the questionnaire also asked TSS officers to state whether, in their opinion, the final price included any unexpected additional charges. The results showed that unexpected charges were a feature of some 17 per cent of the sites assessed. **Figure 2** compares the results.

Figure 2: Compulsory additional charges



Notes:

1. Base: All businesses that sell online (n= 439)
2. Analysis excludes missing answers

3.20 Delivery charges were by far the main type of compulsory charges added to the final price, appearing in 95 per cent of those potentially adding unexpected charges.

3.21 Again, some TSS assessors commented on the clarity of pricing information, mostly suggesting that some sites could advise shoppers more clearly to expect delivery costs as well as how these would be charged:

- 'Delivery charge is present in the T's and C's but could be clearer by adding to the price at an early stage. One has to go through the whole registering process including giving personal details before it is added'
- 'Although on the initial purchasing pages there is no mention of extra delivery charges, as soon as you go to checkout the delivery charge is given'
- 'Postal Charges only became apparent once item added to basket'
- 'Delivery charges could be made clearer from the outset. Charges only outlined on purchase screens.'

- 'Delivery charges not available until you reach the checkout page - would be useful to have them listed somewhere else.'
- 3.22 The TSS web sweep findings confirm those of the market study - that additions to initial prices are a common feature of online shopping, whether buying from smaller or larger retailers. Consumers may not only be confused or even misled by unclear pricing, but their ability to compare and choose items may also be undermined.
- 3.23 Shoppers buying through any retail channel, including websites, can expect traders to tell them the full price they will have to pay (including delivery and other charges) before they commit to buying; and not to make false or misleading statements, or create misleading impressions. Whether prices are misleading depends on case-by-case assessment. The Consumer Protection from Unfair Trading Regulations (CPRs), which come into force in April 2008, will mean that commercial websites that let consumers place orders will need to meet the 'Invitation to Purchase' information requirements of the Regulations.²⁴ Normally, unless it is apparent to buyers from the context, traders will need to provide information on amongst other things, the price inclusive of taxes,²⁵ and, where appropriate, all additional freight, postal or delivery charges.²⁶

Provision of information on cancellation rights

- 3.24 For 95 per cent of the sites reviewed, the cancellation rights in the DSRs applied to the example 'typical' product chosen by the TSS reviewer,²⁷ and 85 per cent of these cases, the sites complied with the DSRs by providing consumers with information on cancellation rights. However, 15 per cent of these sites did not appear to be complying with the information requirements. A higher proportion of the smaller retailers (in terms of numbers of visitors) appeared not to be providing consumers

²⁴ 'Invitation to purchase' means a commercial communication which indicates characteristics of the product and the price in a way appropriate to the means of that commercial communication and thereby enables the consumer to make a purchase.

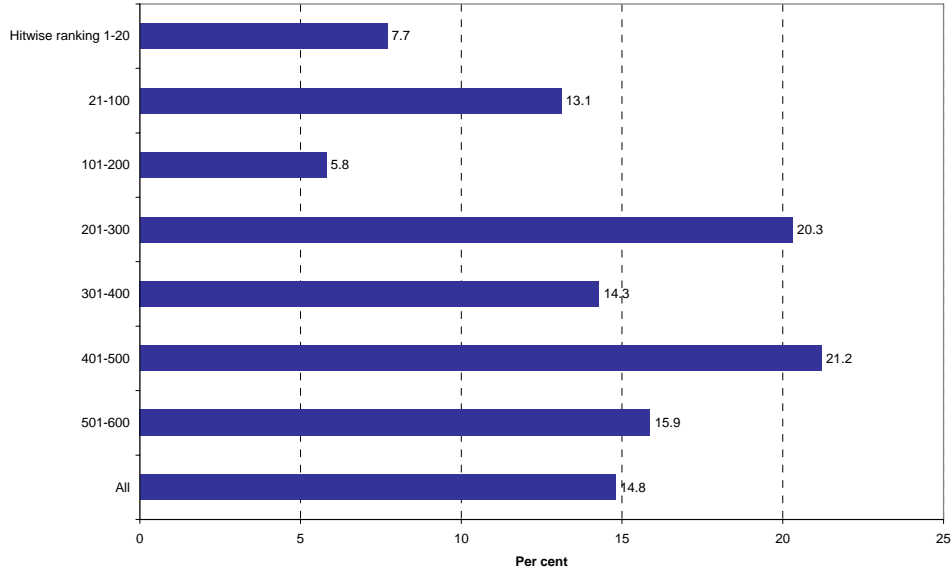
²⁵ Where the nature of the product is such that the price cannot reasonably be calculated in advance, the manner in which the price is calculated will need to be provided.

²⁶ Where such charges cannot reasonably be calculated in advance, the fact that such charges may be payable will need to be provided.

²⁷ Certain products are exempt from the cancellation provisions of the DSRs – for example, personalised goods, perishables and periodicals.

with the required information on cancellation rights than the larger ones (see **Figure 3**).

Figure 3: Proportion of sites not providing consumers with information on the right to cancel (by Hitwise rankings)



Notes:

1. Base: All businesses that sell goods online and for which cancellation rights in the DSRs apply to the products in question (n = 392)
2. Analysis excludes missing answers

3.25 Again, TSS respondents reported that some sites were very good at supplying information – for instance noting that '...Once found the information was presented in a clear manner'. Another noted: 'I chose a personalised item to see whether my attention was drawn to not being able to return the item (under DSR) and it was. I did look at the terms and conditions in relation to all products and they were compliant with DSR'. However, reviewers' comments on some sites were less encouraging:

- 'No clear defined terms and conditions'
- 'Does not appear to have any Terms and conditions page? No information on cancellation/returns policy given anywhere on website. Perhaps information is given at point of delivery?'
- 'The information on their FAQ page...is all only available by watching little videos. The videos take ages to load, and I imagine most consumers would give up on this. There did not seem to be adequate information displayed on the website as required under various pieces

of legislation, and there was no way to save the information that was given - thus contravening the ECRS'

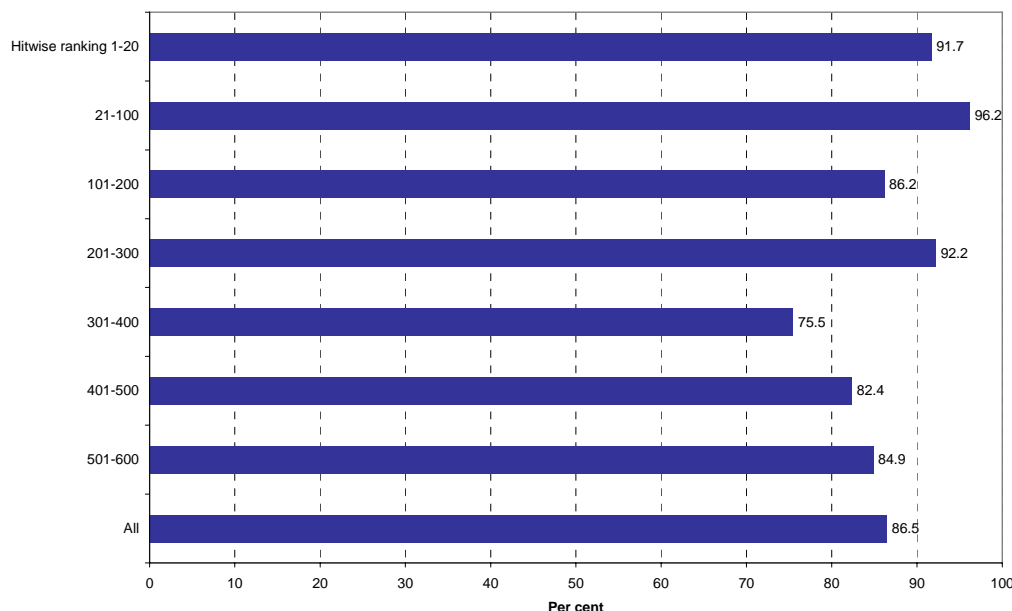
- 'Although the site does have the correct DSR cancellation rights, these are not included in the refunds policy, but hidden away amongst many other terms and conditions'
- '...the wording used to explain consumers' rights to cancel under DSR and return faulty goods is quite confusing. This is especially the case as the rights for returning goods under DSR and also those goods which are faulty are outlined in the same section of the terms and conditions'

Provision of information on cancellation period

3.26 For the large majority (87 per cent) of sites assessed, the correct cancellation period or longer was given.²⁸ However, for 13 per cent of sites a shorter, or potentially shorter, period was given whilst for fewer than one per cent of sites no information on the cancellation period was provided. **Figure 4** shows that fewer of the smaller retailers (in terms of Hitwise rankings) provided information on the correct cancellation period than bigger retailers.

²⁸ Within seven working days from the day after receipt of the goods.

Figure 4: Proportion of businesses mentioning the correct cancellation period (or longer) on their sites (by Hitwise rankings)



Notes:

1. Base: All businesses that sell goods online and comply with the DSRs by providing consumers with information on the right to cancel (n = 334)
2. Analysis excludes missing answers

3.27 Some TSS respondents also commented on the clarity of information presented by sites on the cancellation period. While some commended the information provided, others noted possible breaches (some of which may represent misunderstandings of the regulations):

- 'Clear 'free' returns policy - exceeds the legislative provisions of DSR.'
- 'Actually impressed with the level of compliance with this site.'
- 'Site does not specifically mention cancellation rights but does give details on returns. There is no time scale specified for cancellation/returns'
- 'Whilst a cooling off period is given and the 'Distance Selling Directive' is mentioned, the time given is 7 days from the day of delivery rather than from the day after delivery and so the non-compliance may be due to a mis-interpretation of the Regulations'

- 'The sellers' terms in relation to the right to cancel are confusing. It initially gives the impression that orders can only be cancelled before dispatch but subsequent information implies that that is not the case'
- 'Although the site does have the correct DSR cancellation rights, these are not included in the refunds policy, but hidden away amongst many other terms and conditions'

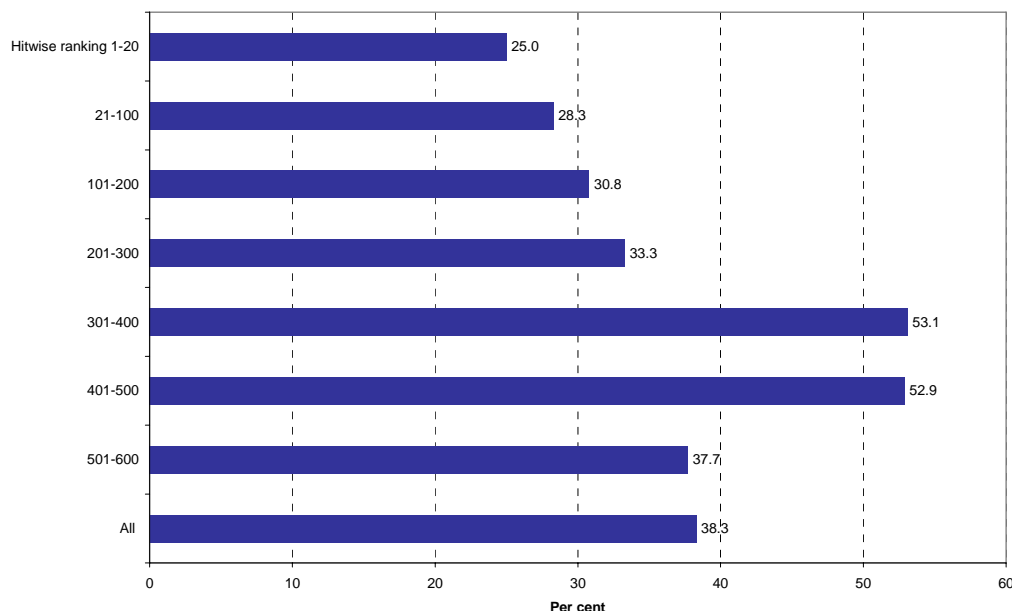
3.28 Again, although not directly comparable, the market study, which assessed a wider size range of retailers, found that where electrical retailers' sites mentioned a cancellation period, most (84 per cent) appeared to give shoppers seven working days or more – apparently meeting or exceeding the requirements of the regulations. However, the market study also found that 12 per cent of electrical sites appeared not to mention any cancellation period and four per cent seemed to say it was less than seven days.

Cancellation refund restrictions

3.29 TSS assessors identified possible unreasonable restrictions on cancellation refunds on 38 per cent of the sites reviewed, implying that the consumer's right to reasonably inspect and assess the product might be infringed.²⁹ Sites where the products assessed were DIY-related, as well as those selling Toys, Hobbies and Sports items were most often recorded as imposing potentially unreasonable conditions. Compliance appeared to be higher among more popular websites (see **Figure 5**).

²⁹ Consumers can only be required to take 'reasonable care' of the goods throughout the cancellation period

Figure 5: Proportion of sites appearing to impose possibly unreasonable restrictions or conditions on cancellation refund rights (by Hitwise rankings)



Notes:

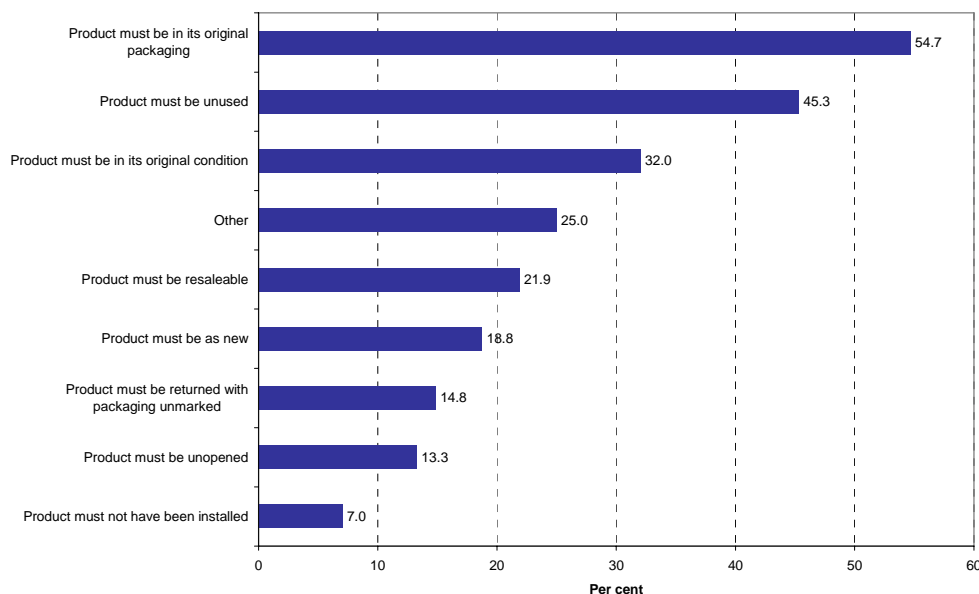
1. Base: All businesses that sell goods online and comply with the DSRs by providing consumers with information on the right to cancel (n = 334)
2. Analysis excludes missing answers

3.30 Although not directly comparable, the market study which considered possible cancellation restrictions on electrical retailers' sites, found that 59 per cent stated at least one condition on consumers' rights to cancel and receive a refund which, depending on the circumstances, may have meant a breach of the regulations.

3.31 In the TSS web sweep, for cases where the websites did appear to impose possibly unreasonable restrictions or conditions, most of these required the product to be returned in its original packaging or unused (see **Figure 6**).³⁰

³⁰ The OFT view is set out in paragraph 3.58 of 'A guide to businesses on distance selling': The DSRs allow consumers to examine goods they have ordered as they would in a shop. If that requires opening the packaging and trying out the goods then they have not breached their duty to take reasonable care of the goods. In these circumstances you cannot insist that consumers return the goods as new or in their original packaging. You may ask consumers to return goods with the original packaging, but you cannot insist on this.'

Figure 6: Nature of potentially unreasonable conditions on cancellation rights



Notes:

1. Base: All businesses that sell goods online and impose unreasonable conditions on cancellation refunds (n = 128)
2. Analysis excludes missing answers
3. Totals may add to greater than 100 per cent because of acceptance of multiple answers
4. 'Other' includes examples such as requirements to explain reasons for return, to return within a short period (e.g. 7 or 14 days), or to only allow returns for faulty items.

3.32 Whether such apparent restrictions in fact amounted to breaches would need case-by-case consideration.³¹ Furthermore, the web sweep did not include test purchases, which might have established whether apparent limitations were applied in practice. Nevertheless, some apparent restrictions recorded by reviewers would appear likely to be limiting shoppers' rights to a refund. Comments from TSS respondents on some of the examples of possible restrictions on cancellation rights included:

- 'Restrictive terms used which limit refunds under DSR unless a prescribed procedure is used for returned goods i.e. a Returns Authorisation Number (RAN) required, and 14 day limit on returning goods after receiving RAN in order to receive refund'
- 'Refunds appear only to be offered in respect of defective items'

³¹ For instance, unless traders agree otherwise, consumers cannot cancel if the order is for audio or video recordings or computer software that the consumer has unsealed (DSRs, Regulation 1391)(d)).

- 'Only offer exchange or credit note for goods that are unwanted by consumers'
- 'Although the site gives 28 days to return products there are many stipulations on this. The site does not mention DSRs'

Overall compliance on providing information on cancellation rights

3.33 Overall, in terms of providing the correct information on cancellation rights, the data from the TSS web sweep showed that, of the 392 sites for which the cancellation rights in the DSRs applied to the products they were selling, 209 (53 per cent) may have been in breach of regulations in terms of apparently:

- a) not complying with the DSRs by providing consumers with information on the right to cancel,
- b) not mentioning the correct cancellation period, and/or
- c) imposing restrictions on cancellation refund rights.

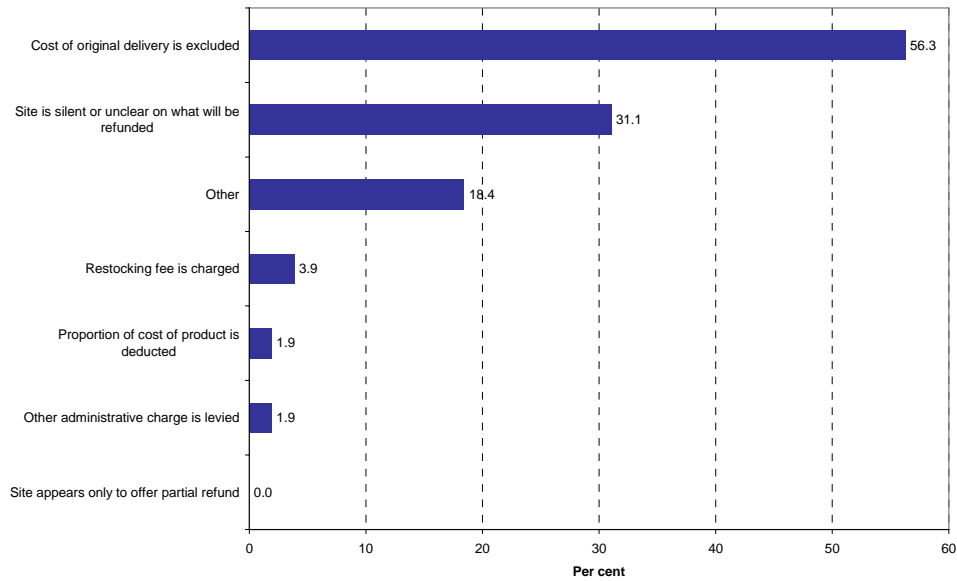
Deductions on cancellation refunds

3.34 The DSRs require online retailers to refund the full cost of the goods sold. The OFT considers that this includes the cost of outward delivery.³² In our web sweep, about a third (31 per cent) of the websites assessed appeared not to comply with this. For these cases, most sites either explicitly excluded the cost of original delivery (56 per cent), or appeared silent or unclear on what would be refunded (31 per cent) - see **Figure 7**.

3.35 There was some variation in results by size of business. A higher proportion of smaller retailers (in terms of Hitwise rankings) were recorded as potentially breaching the regulations in terms of cancellation refunds than bigger retailers (see **Figure 8**).

³² See 'A guide to businesses on distance selling' published by the OFT in September 2006, at 3.48.

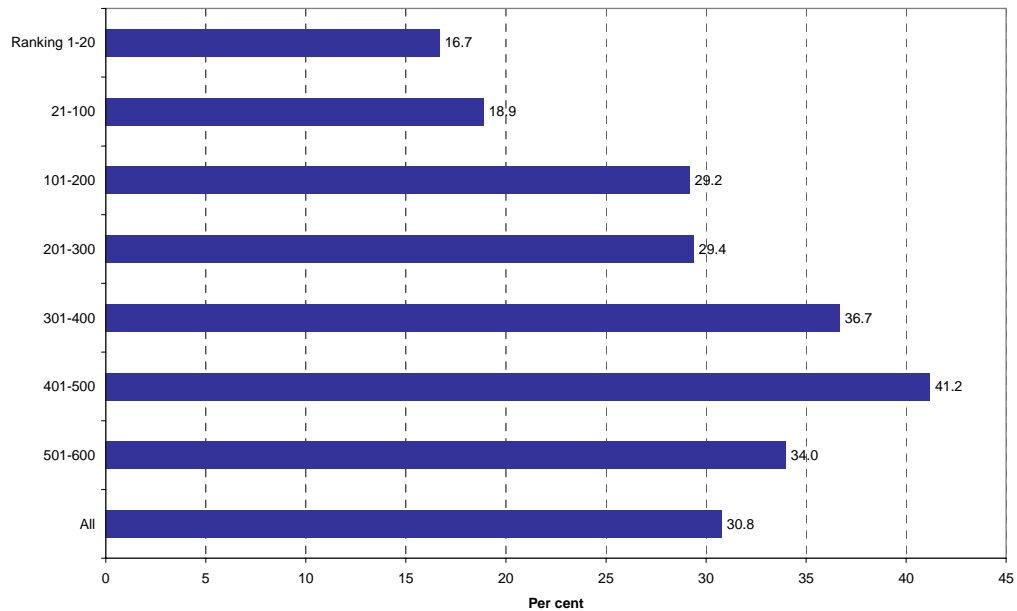
Figure 7: Cancellation refunds – Why does the site not appear to comply with the requirement to refund the full cost of the goods?



Notes:

1. Base: All businesses that sell goods online and do not comply with cancellation refunds requirements (n = 103)
2. Analysis excludes missing answers
3. Totals may add to greater than 100 per cent because of acceptance of multiple answers
4. 'Other' includes examples such as costs of delivery excluded from refund if cancellation is after the item is dispatched, and administration fees charged if returns are outside a short period (e.g. 7 days)

Figure 8: Proportion of sites apparently not refunding the full cost of goods, including the cost of outward delivery (by Hitwise ranking)



Notes:

1. Base: All businesses that sell goods online and comply with the DSRs by providing consumers with information on the right to cancel (n = 334)
2. Analysis excludes missing answers

3.36 Comments from TSS respondents on some of the examples of possible deductions included:

- 'Although the site has the DSR cancellation rights in the Terms and Conditions these are not incorporated or referenced in the main refund policy which does not mention any cancellation rights and talks about 10 per cent marking of box fees and re-stocking fees. The terms and conditions contain many restrictive statements which may infringe the Unfair Terms in Consumer Contracts Regulations 1999'
- 'The main refund policy page, accessible from the checkout screen, talks about re stocking fees of 25 per cent'
- 'They are adamant that delivery charges will not be refunded under any circumstances'

Other legislation

3.37 The TSS reviewers spotted potential breaches of other legislation on 16 per cent of the sites assessed. The large majority of these related to the Unfair Terms in Consumer Contracts Regulations (UTCCRs) 1999 and the Consumer Protection Act (CPA) 1987.

3.38 Of the 71 sites that appeared potentially to breach regulations other than DSRs and ECRs, in 37 cases, the products assessed were Electrical and Clothing and Footwear items. A smaller proportion of the larger retailers were considered to be potentially breaching other regulations.

Assessing overall compliance

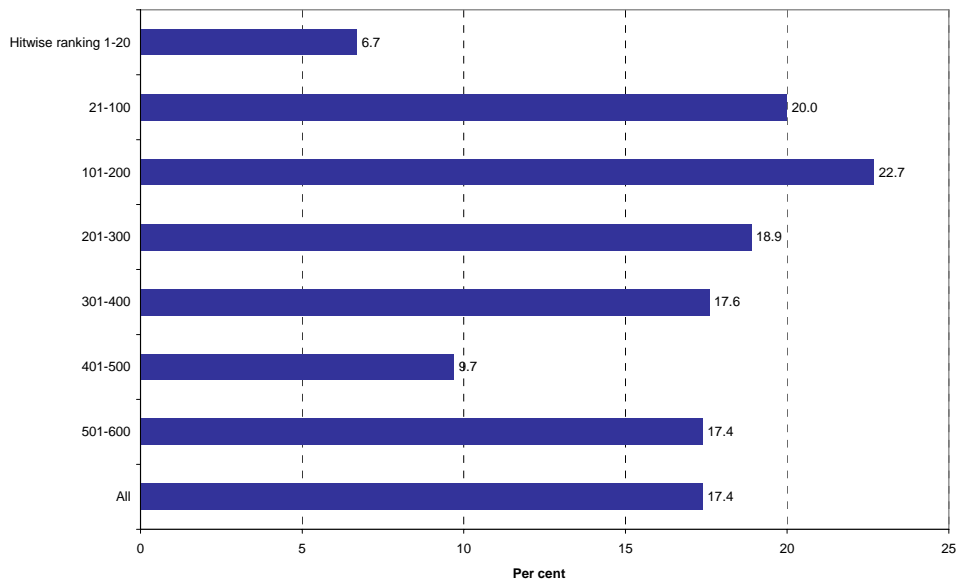
3.39 Drawing together results from the websweep questions on compliance with various online shopping regulations, we estimate that the proportion of sites assessed that appeared perfectly compliant (that is, the reviewers identified no apparent regulatory breaches on the limited criteria assessed) was 17 per cent – or 76 sites out of 439.

3.40 Overall, a greater proportion of the larger retailers' sites appeared fully-compliant than smaller retailers' sites (see **Figure 9**), although of the 76 fully compliant sites, only one appeared in the top-20 of the Hitwise list.

3.41 In terms of types of products assessed, sites selling Clothing and Footwear, followed by DIY and Health and Beauty sites, were the most frequent to appear to comply fully with the regulatory requirements assessed (see **Figure 10**).

3.42 Care must be taken, however, in interpreting these results because the criteria applied did not measure gradations of non-compliance. For example, a site providing a seven day cancellation period (rather than seven working days) would be assessed as being as non-compliant as a site which offered no cancellation period at all.

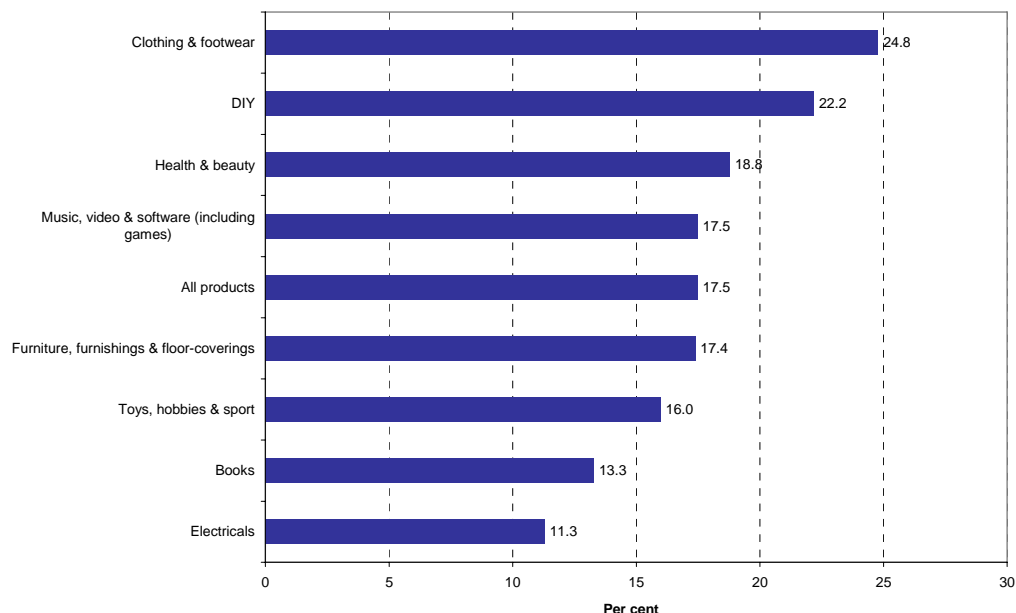
Figure 9: Proportion of sites that appeared fully-compliant (by Hitwise rankings)



Notes:

1. Base: All businesses that sell online and are fully-compliant (n = 76)
2. Analysis excludes missing answers

Figure 10: Proportion of sites that appeared fully-compliant (by type of product assessed)



Notes:

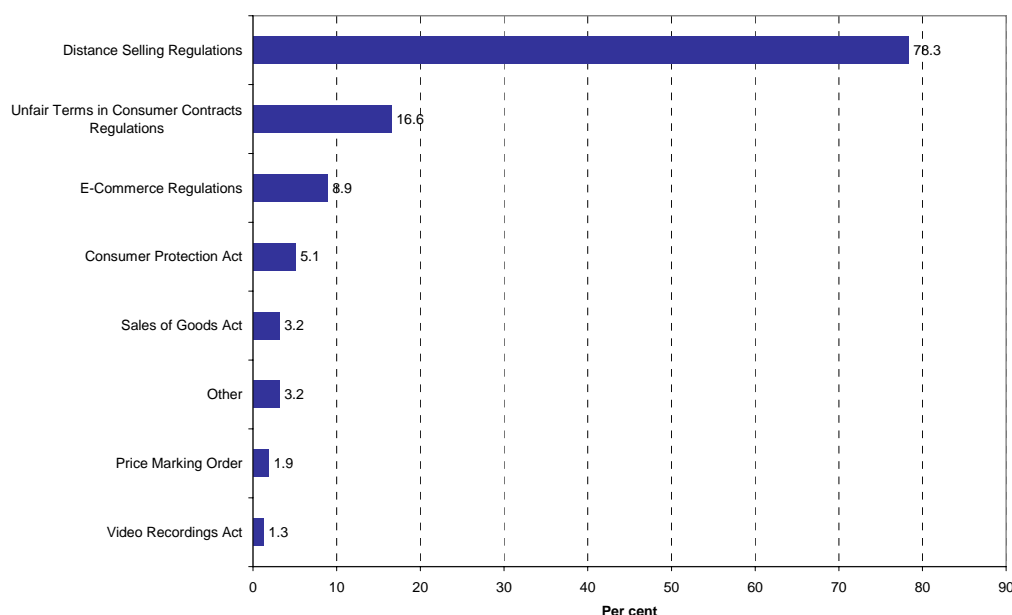
1. Base: All businesses that sell online and are fully-compliant (n = 76)
2. Analysis excludes missing answers
2. Results for sites selling Flowers and Gifts, Food and Grocery, Home-wares, Office Supplies and Stationery and Automotive products have been omitted – cell sizes too small (<15) for estimates to be reliable.

Follow-up action

3.43 Follow-up action was planned by the TSS reviewers for 152 (35 per cent) sites they assessed. In the large majority (95 per cent) of cases, they said that this would take the form of the TSS passing details of the potentially non-compliant businesses to the relevant Home Authority. The most frequently cited products assessed for which follow-up action was planned were DIY and Furniture, Furnishings and Floor-coverings and Electrical sites.

3.44 The DSRs were by far the most popular legislation under which TSS respondents thought action might be appropriate, followed by the Unfair Terms in Consumer Contracts Regulations (UTCCRs) and the ECRs (see **Figure 12**).

Figure 12: Under what legislation did TSS respondents consider action might need to be taken?



Notes:

1. Base: All businesses that sell online for which follow-up action was planned, as a result of TSS findings of regulation breaches (n = 152)
2. Analysis excludes missing answers
3. Totals may add to greater than 100 per cent because of acceptance of multiple answers
4. Other includes legislation such as the Consumer Transactions (Restrictions on Statements) Order 1976, the Plugs and Sockets etc. (Safety) Regulations 1994 and the Criminal Justice Act 1988.

Analysis of non-EU based sites

3.45 The TSS respondents also assessed 31 non-EU sites³³ selling online to UK consumers. Most of these non EU-based websites were at the lower end of the Hitwise ranking (see **Table 1**). Of the typical products chosen by the assessors for these sites, Music, Video and Software featured most prominently – accounting for 42 per cent of the 31 checks.

3.46 These sites could not be assessed against the DSRs and ECRs for compliance because they are not governed by EU regulations, although some sites may offer equivalent contractual protections for commercial reasons or because of protections required by the country in which they are based. Nevertheless, although the numbers are very small, an analysis of the data relating to these sites provides some measure of the extent to

³³ All of these 31 sites allowed UK consumers to order products online and so were included in the analysis.

which these sites might offer similar or differing protections to the DSRs and ECRs.

Table 1: Number of websites (by Hitwise rankings)

Hitwise ranking	Number of websites			
	UK	EU (except UK)	Non-EU	All
1-20	17	0	3	20
21-100	71	4	2	77
101-200	83	3	1	87
201-300	80	1	4	85
301-400	76	2	4	82
401-500	81	4	7	92
501-600	77	0	10	87
All	485	14	31	530

3.47 In terms of providing **contact details**, TSS assessors reported that all the sites provided a physical address for their business. However, seven sites provided only the equivalent of a PO Box number, and 16 provided no email address.³⁴

3.48 In terms of providing **adding potentially unexpected charges**, 16 sites added compulsory additions to the final checkout price and in the TSS assessors' opinion, for six sites there were unexpected additions to the final price (typically delivery charges).

3.49 In terms of **cancellation rights**, the assessors judged that the rights in the DSRs would have applied to the product in question for 20 sites and that 16 of these provided consumers with information on a right to cancel. Of the non-EU sites providing information on cancellation rights, only 3 out of 16 were offering a shorter period than that required by the DSRs. Overall, 12 out of 26³⁵ of the non-EU based sites might have been in breach of regulations with regard to cancellation rights, had the DSRs applied to them.

3.50 In terms of **deductions on cancellation refunds**, of those 16 sites that provided information on cancellation rights, six would not have complied with the requirement in the DSRs to refund the full costs of goods sold.

³⁴ There were two missing answers.

³⁵ There were five missing answers.

3.51 Finally, in terms of **potential breaches of other legislation**, what would have amounted to potential breaches of legislation other than DSRs and ECRs were identified on only two of the 31 non-EU sites assessed.

3.52 In conclusion, on the basis of the limited assessment and although numbers were small, many of the largest non-EU based online retailers assessed seemed to offer similar protections to those offered by online retailers based in the EU. However, the small numbers involved means that these findings must be treated with caution.

Privacy and security³⁶

3.53 Finally, turning to the issue of online privacy and security, the TSS assessors reported that for eight per cent of the businesses assessed, a padlock symbol (or 'https' prefix to the website address) did not appear on any page they viewed where personal details were requested and a further eight per cent of businesses were using secure links on only some of the pages where personal details were requested.³⁷

3.54 This did not differ according to whether the site was EU or non-EU based. However, it is notable that all of the EU-based sites that appeared in the top-20 of the Hitwise list in September 2007 were found to be using secure links.

Lessons learned from running the web sweep

3.55 The web sweep was successful in terms of enabling a large number of sites to be assessed in a relatively short period. Ultimately, the exercise led to the review of 530 sites – 88 per cent of the possible maximum number of sites that might have been reviewed.

3.56 In hindsight, we identified some positive lessons from the sweep, as well as some lessons for how it might be improved were the exercise to be repeated in the future. The key process lessons we identified were that:

³⁶ Results in this section relate to all (530 EU and non-EU based) sites assessed, as the padlock symbol display is not a regulatory requirement.

³⁷ It should be noted that some assessors were unable to view all URLs where personal details were requested without entering card details and therefore unable to check that all these URLs were secure.

- Using an online survey tool was a very low-cost option that also made it easy to set up and amend the questionnaire. It allowed us to follow the results as they came in and address any potential problems. Finally, when the sweep was finished the data were easy to download and put into a format for analysis. The sweep should also be easy to repeat,
- Providing detailed and comprehensive guidance helped to keep requests for explanations and advice from respondents to a manageable level, and
- Piloting both the questionnaire and guidance was critical to developing an approach that was as user friendly as possible. We were able to make substantial improvements to the tools, thanks to the comments from the pilot authorities.

3.57 In terms of how the process might be improved were the exercise to be repeated in the future:

- As time goes on and the internet becomes even more significant to shoppers (and thus enforcers), the importance of checking sites is likely to increase. However, some officers reported difficulties in accessing some online shopping sites due to security and usage restrictions. This can sometimes be solved by the IT departments lifting restrictions while the sweep is taking place. Others reported a need for special credit card facilities, or restrictions on their use,
- We achieved approximately 50 per cent sign-up from the authorities contacted, the majority of whom (90 per cent) subsequently participated, which underlines the value of seeking prior sign-up. Although a good result, however, some TSS who did not participate suggested they could have done with more notice. This would have allowed them to include the web sweep in their business plans, and
- Applicability of DSRs to non-EU sites proved difficult for those TSS assigned them. This was the main issues which came up during the running of the exercise. We subsequently issued guidance (**Annex 4**), but this is an issue that could have been dealt with better before we started.

ANNEXE 1: THE DSRs AND THE ECRs

Consumer rights under the DSRs³⁸

If shoppers are buying at a distance under an organised scheme – including over the internet – the business must provide them with key information, including:

- its legal identity
- if payment is required in advance, its geographic address
- a description of the main characteristics of the goods or services
- the price of the goods or services including all taxes
- details of any delivery costs where appropriate
- details of how payment can be made
- the arrangements for delivery or performance of the service
- the shoppers' right to cancel (unless the contract is for goods and services which are excepted from this)

Once shoppers decide to buy, the trader has to provide them in writing (or another 'durable medium') the information listed above together with information about the conditions and procedures for exercising their right to cancel.³⁹

Businesses must also tell consumers the address to which they can address any complaints. Shoppers also have the right to:

- cancel the contract within a short period
- a refund of the cost of the goods or services together with all sums paid in relation to the contract (such as delivery costs) as soon as possible after cancellation and in any case within 30 days at the latest
- delivery of the goods or performance of the service by the trader within 30 days from the day after the day they send the order to the business (or other period as agreed)
- protection from the fraudulent use of their payment card

³⁸ There are some exceptions and some contracts to which only part of the DSRs apply. For example, the DSRs do not apply to: Business to Business (B2B) sales; the sale of land, financial services (which are covered by other regulations); sales concluded at an auction; and where a business only occasionally sells by distance means. They also only partially apply in some cases. For instance, the information requirements, the right to cancel and the requirement to carry out the contract within 30 days do not apply to the supply of food drinks or goods by regular roundsmen (such as milkmen), accommodation and transport, catering or leisure services. Also, the specific requirements concerning the carrying out of the contract do not apply to timeshare agreements and package travel.

³⁹ The time limits for cancellation of contracts for goods and services depend on when the consumer receives the required written information.

The ECRs and online shopping

If shoppers are buying from a business selling or advertising on the internet, the business must give them certain information including the following:

- Full name of the business
- Geographic address where it is established
- Trader's contact details including an email address to enable shoppers to contact the trader rapidly and effectively
- Trader's VAT number if the business is subject to VAT
- Where a business refers to the price of goods and/or services, a clear and unambiguous indication of those prices and, in particular, whether the prices include taxes and delivery costs.

If the contract is made entirely online, which may typically be the case if a consumer orders on a website, the business must also give shoppers the following information in a clear, comprehensible and unambiguous manner:

- the different technical steps to follow to conclude the contract
- whether or not the contract will be filed by the trader and whether it will be accessible to the shopper
- how the consumer can identify and correct input errors prior to placing the order
- any relevant codes of conduct which the trader subscribes to and information as to how they may be consulted electronically
- where a business provides terms and conditions that are applicable to the contract they must be made available in a way that allows the shopper to store and reproduce them

Shoppers also have the following rights:

- where they place an order through technological means, they must receive acknowledgement of receipt of the order electronically without undue delay and be provided with the technical means to correct input errors prior to placing an order
- to be able clearly to identify if an email is advertising and which trader sent it.

ANNEXE 2: THE ONLINE QUESTIONNAIRE

OFT Internet Shopping Websweep

Your details

Welcome to the OFT's website review form. Please use this to assess websites' compliance with consumer protection legislation. You will need to enter the password and your email address each time you review a site.

Please consult the guidance supplied as you complete this survey.

Please only use the buttons at the bottom of each page to navigate the survey. Please do not use your browser back and forward buttons to navigate the survey.

* 1. Please enter your work email address

Details for the business you are reviewing

* 2. Please enter the name of the business being assessed (as shown on the list we supplied)

* 3. Please enter the website address (as shown on the list we supplied)

Online sales to UK consumers

4. Does the site allow UK consumers to order products online?

Note: See accompanying guidance. If UK consumers cannot order online from this site, select one of the 'No' options and you will be redirected to the end of the form so you can move on to the next retailer on the list.

Yes

No - UK consumers cannot buy from the site

No - you can only order offline

No - only sells to other businesses

No - redirects to another trader's site

No - Other (please specify)

Physical address

* 5. Does the site list any physical address for the business?

Note: This information will probably be available in 'About Us', 'Contract Terms' or similar.

Yes

No

Business address

OFT Internet Shopping Websweep

6. What type of physical address does the business give?

Note: Tick all that apply

- Full geographical address
- PO Box

7. Please enter available physical address details here

Business name	<input type="text"/>
PO Box (if applicable)	<input type="text"/>
Line 1	<input type="text"/>
Line 2	<input type="text"/>
Line 3	<input type="text"/>
Postcode	<input type="text"/>
Country (if not UK)	<input type="text"/>

Contact details

* 8. Could you find an email address (as required by the E-Commerce Regulations) or a contact web form?

Note: Tick all those which apply.

- Email address
- Web form
- Neither

* 9. What is the name of the trader's local Trading Standards Service?

Note: Please see guidance for a list of sources.

- Cannot identify - no or insufficient contact details
- Cannot identify - not listed on the Trading Standards or LACORS databases, or elsewhere
- Cannot identify - only non-UK contact provided
- Can identify - Enter Home Authority in box (please use full name)

Product checked

OFT Internet Shopping Websweep

* 10. Please identify the type of product that you have chosen to check

Note: Please do not select a 'featured product' highlighted on the front page as they may not be representative of the offers made throughout the site. Please choose goods if possible (only choose a service if a site does not sell goods).

- Automotive
- Books
- Toys, hobbies & sport
- Clothing & footwear
- DIY
- Electricals
- Food & grocery
- Furniture, furnishings & floorcoverings
- Health & beauty
- Homewares (for example cleaning products, tableware, kitchenware)
- Music, video & software (including games)
- Flowers & gifts
- Office supplies & stationery
- Other (please specify)

* 11. Please give a brief description of the product you are checking (for example Sony TV model ABC123)

Clarity of price

* 12. When you are first shown the price, is it indicated that there will be compulsory additional charges that are not included in the initial price?

Note: This can be a complex issue. Please refer to the guidance. We recommend you also make a separate note of the price shown now.

- Yes, additional charges are indicated on the page
- No, additional charges are not mentioned, or the price appears to be inclusive (for example of VAT/delivery)

Types of additional charge

* 13. Please specify types of all additional compulsory charges

Note: tick all that apply

- Delivery charge
- Unavoidable card charge
- VAT
- Other tax or duty
- Other (please specify)

Goods or services

OFT Internet Shopping Websweep

* 14. Would you define the product as goods or services?

Goods

Services

Distance Selling Regulations applicability - cancellation rights

* 15. Do the cancellation rights in the Distance Selling Regulations (DSRs) apply to the product in question?

Note: See the supplied guidance on applicability of DSRs

Yes

No

Distance Selling Regulations compliance - cancellation rights

* 16. Does the site comply with the DSRs by providing consumers with information on the right to cancel?

Yes

No

Cancellation period

17. Is the correct cancellation period mentioned?

Note: This can be a complex issue, please refer to the guidance note before answering.

Yes - the correct period or longer is given

No - there is no mention of the cancellation period

No - a shorter or potentially shorter period is given (please explain)

Cancellation refund restrictions

* 18. Does the site appear to impose any restrictions or conditions on cancellation refund rights which infringe the consumer's right to reasonably inspect and assess the product?

Note: Examples of unreasonable restrictions can be found in Question 19, below.

Yes - please now answer Question 19

No - please go to next page

OFT Internet Shopping Websweep

19. If the site appears to impose potentially unreasonable conditions, what are these?

Note: Tick all those which apply. If no unreasonable conditions appear to be imposed, please leave this question blank.

- Product must be 'as new'
- Product must be 'in its original condition'
- Product must be 'resaleable'
- Product must be unopened
- Product must be in its original packaging
- Product must be returned with packaging unmarked
- Product must be unused
- Product must not have been installed
- Other (specify - please only use this option if condition imposed is not close to one of the above options)

Deductions on cancellation refunds

* 20. The DSRs require online retailers to refund the full cost of the goods - including the cost of outward delivery. Does the site appear to comply with this requirement?

Yes

No

Types of deductions on cancellation refunds

21. Why does site not appear to comply? (tick all that apply)

- Site is silent or unclear on what will be refunded
- Cost of original delivery is excluded
- Restocking fee is charged
- Other administrative charge is levied
- Proportion of cost of product is deducted (e.g. to account for reduction in resale value)
- Site appears only to offer partial refund
- Other (specify - please only use this option if charge is not close to one of the above options)

Price

* 22. Does the final checkout price include any compulsory additions to the very first price you were shown?

Yes, the final price is higher

No, the price is the same (or lower)

Types of additional charge

OFT Internet Shopping Websweep

* 23. Please specify types of all additional compulsory charges added.

Note: tick all that apply

- Delivery charge
- Unavoidable card charge
- VAT
- Other tax or duty
- Other (please specify)

Unexpected additional charges

* 24. In your opinion, does the final price include any additional charges which you were not expecting?

No

Yes, please describe

Privacy and security

25. Does the padlock symbol appear on the screen for all pages you encounter where personal details are requested?

Note: You can also check that the address of the web page begins with 'https:' rather than 'http:'

Yes - all pages where personal details are requested have a padlock

No - Only some pages where personal details are requested have a padlock

No - none of the pages show the padlock

Other legislation

* 26. While reviewing the site did you spot any possible breaches of other legislation? (for example the Unfair Terms in Consumer Contracts Regulations 1999 or the Consumer Protection Act 1987)

Yes

No

Other legislation - comments

* 27. Please give a brief description of the possible breaches you identified of other legislation

Follow-up action

OFT Internet Shopping Websweep

* 28. Do you plan to take any follow-up action in response to your findings (for example referral to Home Authority)?

Yes

No

No further action

* 29. Why do you not plan to take further action?

The site appears to be compliant

Any possible breaches do not appear to be significant

The site was not compliant but is based abroad

We cannot identify the Home Authority

We do not have the time/resources to follow up any possible breaches

Other (please specify)

Action planned

30. Under what legislation do you plan action? (tick all that apply)

Distance Selling Regulations

Electronic Commerce Regulations

Other legislation (please specify)

* 31. What type of follow-up action do you anticipate?

Pass details to Home Authority

Other (please specify)

Comments

32. If you have any other observations about the site you have surveyed please write them here (optional).

Finished - thank you

Thank you for taking part in this survey. If you have another site to assess please return to the beginning (you will be automatically redirected when you click 'Done'). If you have completed the list of sites to review or do not wish to review another site immediately, please click 'Done' then close your browser to exit this survey.

ANNEXE 3: GUIDANCE FOR COMPLETING THE QUESTIONNAIRE

Introduction

Thank you very much for agreeing to participate in the OFT's web sweep of top internet traders. Your answers will greatly assist us in assessing general compliance with key areas of consumer protection law, and we hope that this work will assist you in identifying and addressing any specific breaches.

The websweep is being conducted between 9am on Monday 3 December and 5pm on Friday 14 December. You can conduct the review at any time during this period.

By completing an online form, your responses will be logged centrally, so you can choose whether to review all the sites in one go, or to pace yourself by spreading your reviews of individual sites over the two weeks. **However, please can you make sure that you have completed your review of all the sites by 5pm on Friday 14 December.**

Please follow this step-by-step guide to completing the online form. It should tell you how to deal with most of the issues you are likely to face.

Once you have reviewed all six sites we allocated, please can you let us know by emailing us at: onlineshopping@oft.gsi.gov.uk.

Further guidance on distance selling can also be found at: http://www.oft.gov.uk/advice_and_resources/small_businesses/distance-selling/. In particular, you may also find the OFT's 'Guide for businesses on distance selling' useful: http://www.oft.gov.uk/shared_oft/business_leaflets/general/oft698.pdf.

Please note:

- We are not asking you make test purchases, but of course you are welcome to do so should you wish to and have the necessary equipment and resources.
- The web sweep is focusing on the regulations with particular relevance to online shopping, the Distance Selling Regulations (DSRs) and E-Commerce Regulations (ECRs). However, there is an opportunity to record breaches you may have spotted of any other regulations.
- We have tried in this guidance to answer all of the potential questions which may arise, so please read it carefully. If there is an issue we have not addressed, we ask that you use your experience and judgement to decide how to act.
- If you are still not sure, please do email us at the above address, or, if your query is urgent, please contact us at:

Adrian Leigh – 020 7211 8805

Charles Hamilton – 020 7211 8936

Robleh Tinning – 020 7211 8283

Getting set up

Click on the link in the email you have been sent to go to the online questionnaire that will assist you with the process of checking a website for regulatory compliance. The questionnaire should automatically open in a new window of your internet browser. **For security, you will be asked to enter a password which you should have received separately. You will have to re-enter the password every time you begin the survey.**

You should have received a list of the names of the six businesses we would like you to check, along with their URLs (website addresses). This list has been generated randomly from a list of the retail sites most visited by UK internet users.

Open the first website on your list in another new window (or, if you prefer, in a new tab if your browser allows this). **The addresses in the email are not hyperlinks, so you will need to copy and paste them into your browser** (rather than just click on them). You may like to resize the two windows so that you can see them both simultaneously on your screen.

If you can't access a retailer's site, this may be because your IT department has blocked access to it, in which case please ask your IT department if the site can be unblocked. If you are still having problems, it may be that the address doesn't work, in which case please email onlineshopping@oft.gsi.gov.uk.

We recommend that you **spend a few minutes looking round the site** and familiarising yourself with its layout, as well as key information on how the business trades (e.g. under 'About Us', 'Contract Terms', 'Help', etc). In particular we'll be looking for information on geographic address, pricing, and cancellation and refund rights.

You are now ready to begin completing the form. **Please make sure that you carefully read the questions and all related notes on each page of the questionnaire.**

Checking the sites

We estimate that, once you are familiar with the procedure, **it should not take more than about 25 minutes to complete the questionnaire** for any one site. We hope that the time it takes will reduce as you become more familiar with the questions. Please don't spend more than about 45 minutes on each site. The exercise is intended to indicate availability of information, and is not intended to involve in-depth detailed compliance assessments – further investigation would be necessary before any enforcement action; **so if you can't find a particular piece of information in about five minutes, assume it's not there.**

You may find that **you need to register on some sites, or to enter personal/card details**, in order to answer some of the questions. Please use your own name and details (or make them up) and work email address if you are comfortable doing so (be sure to opt out of any future/third-party contact). Occasionally you may be asked to enter payment card details; if possible please use one provided by your department for the purpose, or else it may be possible to make these up.

We appreciate that **some people might not feel very comfortable checking certain sites** because of the nature of the products sold. Consumer protection law applies equally to any product legally sold and purchased. Where some consumers may be less likely to seek redress because of embarrassment, businesses may feel more able to act with impunity. However, if you are uncomfortable, please email onlineshopping@oft.gsi.gov.uk and ask for it to be reassigned.

Navigating the survey

There are 32 questions in this survey, but some of them will automatically be skipped according to the answers you give. Questions marked with an asterisk are compulsory. If many users are entering data at the same time, you may need to wait a moment for the data you input to be recorded.

Please use the 'Prev' and 'Next' buttons on the survey (not your browser's 'Back' and 'Forward' buttons) to navigate; otherwise your answers may not be stored. Using these buttons **you can review and change your answers until you reach the end of the survey and click 'Done'**, when all your answers will be saved.

Please do not close the browser window until you have answered all questions for a particular site and clicked 'Done', otherwise a partial response will be saved. Please therefore try to make sure that you are going to be able to finish checking a whole site before you begin, or, if you need to take a short break, make sure you leave the browser window open. Of course there is nothing to stop you leaving the survey after you have finished one site and coming back on a later occasion to check the other sites. If for some reason you do have to exit before finishing a site, for example because your computer crashes, please let us know so that we can delete any partial responses.

If you are experiencing problems with accessing the survey or recording your findings please let us know as soon as possible.

Your details

Q 1. Please enter your work email address

Fill in your email address on page 1. To ensure that we log your results for each site you check, please fill this in each time you check a new site.

Click 'Next'.

Details for the business you are reviewing

Q 2. Please enter the name of the business being assessed (as shown on the list we supplied)

Copy (Ctrl + c) and paste (Ctrl + v) the name of the business into the form exactly as they appear on the list you were supplied.

Q 3. Please enter the website address (as shown on the list we supplied)

Do the same with the website's address (URL), entering it **as it appears on our list** (some addresses will automatically redirect to different URLs).

Click 'Next'.

Online sales to UK consumers

Q 4. Does the site allow UK consumers to order products online?

We are focusing on sites that enable **UK consumers to order products online**.

- *To find this out, you could look to see whether **prices** are quoted in Sterling.*
- *You could also see whether its **Terms and Conditions** state who it will sell to.*
- *It may be necessary to see whether it's **possible to enter a UK delivery address**.*
- *However, please tick 'No' if the site **does not let you order online** and instead **requires** you to order by post, phone, fax or email.*
- *Please also tick 'No – redirects to another trader's site' if the site redirects you to another business's site to make a purchase.*

This sweep does not include businesses that sell exclusively to other businesses, or wholesale suppliers. Some sites are principally or entirely intended to market to businesses (with terms that reflect this); however, they may still allow consumers to buy.

- *Therefore, tick 'Yes' if the website will permit consumers to make purchases.*
- *Tick 'No – only sells to other businesses' if the website only allows business buyers, for example through membership.*
- *If there are a number of separate reasons why UK consumers cannot order on this site, please choose the main reason.*

Click 'Next'.

[Yes → Q 5

No → Final page]

Physical address

Q 5. Does the site list any physical address for the business?

A physical (postal) address is usually found in a section called something like 'About us', 'Contact us', 'Customer services' or 'Terms and conditions', often accessible via a link at the top or bottom of the page. However, it may be more hidden than this. Please exercise your discretion and spend a little while looking for this information. Please tick 'Yes' if you find one or more addresses (whether in the UK or abroad), but if you cannot find any physical address within about five minutes, assume it's not there and tick 'No'.

Click 'Next'.
[Yes → Q 6
No → Q 8]

Business address

Q 6. What type of physical address does the business give?

Please state whether a geographical address or a PO Box address is given. If both are available, tick both boxes.

Q 7. Please enter available physical address details here

If more than one address is given, please make a judgment as to which would be the most useful address to record.

- *You will shortly be asked to find out the Local Authority Trading Standards Service for the business, so the best address to record may be one at which the trader would have a Home Authority relationship, usually a head office.*
- *Please only record a non-UK address if you cannot find a UK address.*
- *Under the DSRs, businesses must give their address if payment is required in advance. Under the Companies Act, companies must provide their registered office.*
- *Please see guidance on Q 9 for more information on identifying businesses.*

Click 'Next'.

Contact details

Q 8. Could you find an email address (as required by the E-Commerce Regulations) or a contact web form?

Look (for example in the 'Contact us' or 'About us' section) for the means by which consumers can contact the business. They are required by the E-Commerce Regulations (ECRs) to supply an email address for **rapid contact and direct and effective communication**. However, some only provide a web form for contact. Some don't provide either. Please tick all the options which apply.

- *Some sites may provide an email address which is only for a very specific purpose, such as to unsubscribe from correspondence, which on its own would probably not satisfy the ECRs. Please make a judgement as to whether the address supplied complies with the ECRS, and if necessary give a brief explanation in Comments (Q 31).*
- *If the site provides a link (in the format <mailto:onlineshopping@oft.gsi.gov.uk>) which automatically opens a new email, please tick 'Email address'.*

Q 9. What is the name of the trader's local Trading Standards Service?

Please find out which Local Authority Trading Standards Service is responsible for the business using the postcode from the address you found in Q 7, and enter its **full name** as it appears in the database.

- Please use the Trading Standards database at www.tradingstandards.gov.uk.
- You could also check the Home Authority Database at www.lacors.gov.uk (this database requires a login; if you do not have this, please ask a colleague)
- Other ways of finding out the legal identity of online traders include Companies House <http://www.companieshouse.gov.uk/WebCheck/fastrack/> and the Whois database <http://www.whois.net/>, or the area code of telephone numbers provided.
- If you found an address in another country, please first check to see whether there is also a UK office also listed on the website. If you could not find any UK address, please tick 'Cannot identify – only non-UK contact provided'.

Click 'Next'.

Product checked

Now please choose a typical product sold on the site.

- Please choose goods if possible, since we are not testing for compliance with the DSRs cancellation rights as they apply to services.
- However, if the site only sells services (for example music downloads) then please select one.
- Some sites prominently display products which they offer on different terms (for example including free delivery) from the rest of what they sell. Please therefore choose a product which is typical, rather than on special promotion.

Q 10. Please identify the type of product that you have chosen to check

Select the category into which the product you have chosen falls.

Q 11. Please give a brief description of the product you are checking

- Please include any model number (if relevant).

Click 'Next'.

Clarity of price

Q 12. When you are first shown the price, is it indicated that there will be compulsory additional charges that are not included in the initial price?

At this point we advise that you **make a note separately of the exact price quoted** when the product is first shown (some sites show more pricing details once you have clicked on the product, but we are interested in what is included in the very first price shown).

We want to know whether sellers who later add on extra charges make it clear when the price is first quoted that they intend to do so. We will later ask you if any charges have been added by the time you reach the final checkout price, and compare your answers to these two questions. While the non-inclusion of everything which will be in

the final price does not necessarily indicate non-compliance with applicable laws, it is an important indicator of price transparency.⁴⁰

Please look on the page where the price of the product is first given and decide whether it is stated that compulsory extra charges will later be added to the price, or whether the price appears to be final and inclusive.

Extra charges may be indicated, for example, next to the price, or in a box or banner elsewhere on the page.

- *For example, tick 'Yes' if:*
 - *it **is** made clear that additional compulsory costs (such as tax and delivery) will be added (e.g. £25 + VAT, or £25 + delivery, or pandp).*
 - *it says 'delivery not included' next to the first price shown, or gives a list of delivery charges on the same page.*
- *Tick 'No' if:*
 - *the price is explicitly stated as being 'all inclusive' (of all tax, delivery fees and all other charges)*
 - *a price is quoted as already including a charge (e.g. '£25 inc. VAT'), and no other additional charges are indicated elsewhere on the screen.*
 - *it is **not** indicated anywhere on the page where the price is first quoted that any compulsory charges will be added.*
 - *extra charges are indicated on **other** pages of the website, (but not on the page where the first price is shown).*

Click 'Next'.
[Yes → Q 13
No → Q 14]

Types of additional charge

Q 13. Please specify types of all additional compulsory charges

Please specify all unavoidable extra charges which are mentioned when a price is first quoted.

- *Tick 'unavoidable card charge' if it is stated that there is always a fee for using all types of payment card (even if the fee differs for different types of card)*

Click 'Next'.

Goods or services

Q 14. Would you define the product as goods or services?

- *As mentioned before, we would prefer you to choose goods if possible.*

⁴⁰ Under the DSRs suppliers are required to provide the price including tax and delivery costs in good time **prior to conclusion of the contract**. The ECRs only require suppliers to indicate whether prices are inclusive of tax and delivery costs. The DTI Code on price indications (which can be used to support a prosecution for giving a misleading price indication, contrary to section 20 of the Consumer Protection Act 1987) indicates that those selling by distance contract should make clear any additional charges for postage, packing or delivery (or the method of calculation of these charges), so that consumers are fully aware of them **before they commit themselves to buy**.

Click 'Next'
[Good → Q 15
Service → Q 22]

Distance Selling Regulations applicability – cancellation rights

Q 15. Do the cancellation rights in the Distance Selling Regulations (DSRs) apply to the product in question?

Please decide whether or not the cancellation right (cooling-off period) in the DSRs applies to the product you have chosen.

- *If you are unsure, please see the OFT's Guide for businesses on distance selling: http://www.offt.gov.uk/shared_offt/business_leaflets/general/offt698.pdf. To refresh your memory, some **exceptions** are:*
 - *personalised goods or goods made to a consumer's specification (NOT including off-the-shelf options like alloy wheels or computer components)*
 - *goods that cannot, by their nature, be returned*
 - *perishable goods (e.g. flowers, fresh food)*
 - *un-sealed audio or video recordings or computer software*
 - *newspapers, periodicals or magazines*

Click 'Next'.
[Yes → Q 16
No → Q 22]

Distance Selling Regulations compliance – cancellation rights

Q 16. Does the site comply with the DSRs by providing consumers with information on the right to cancel?

Please check the site to see if it tells consumers that they have a right to cancel a purchase of this product after receipt simply if they have changed their mind. If you cannot find any information on the site within 5 minutes, please assume it is not there.

- *Under the DSRs, sellers are required to state what right the consumer has to cancel a purchase.*
- *Please look in the terms and conditions (possibly under '**Returns**') which apply to **the specific product you have chosen to check**.*
- *At this stage, please tick 'Yes' if the site says there is a right to cancel even if you think that the site goes on to add unreasonable conditions or limitations to that right*

Click 'Next'.
[Yes → Q 17
No → Q 22]

Cancellation period

Q 17. Is the correct cancellation period mentioned?

Under the DSRs, where the cancellation right applies, consumers may cancel their purchase at any time from purchase until the end of the seventh working day, beginning on the day after the day on which the product was received by the consumer.

- *Tick 'Yes' if the correct period or longer is given.*

- *Tick the second option if there is no explanation of the cancellation period.*
- *Tick the third option if a shorter period is given (including for example 'seven days' or 'seven working days beginning on the day of delivery').*
- *Also tick the third option if an apparently longer time is given which could in actual fact be a shorter period (for example '14 days from dispatch', or 'ten days after delivery' which could amount to fewer than seven working days for a product purchased in the week before Easter or Christmas). Please enter full details if you choose this option.*

Click 'Next'.

Cancellation refund restrictions

Q 18. Does the site appear to impose any restrictions or conditions on cancellation refund rights which infringe the consumer's rights to reasonably inspect and assess the product?

Please make an assessment of the wording of the cancellation right and decide whether you think any unreasonable restrictions or conditions are being imposed, which in practice would prevent the consumer from being able to inspect and assess the product. To assist you, some examples are given in Q19.

- *Under the DSRs, consumers are entitled to reasonably inspect and assess a product before making a final decision on whether to keep it.*
- *Consumers are obliged to take reasonable care of the product while it is in their possession and businesses can stipulate what that means for the product in question. But beyond this, sellers must not place any restrictions or obligations on consumers' right to cancel the purchase and receive a full refund.*
- *NB. The major exception to this is for sealed recordings and software which shoppers can only return if unopened.*

[Yes → Q 19
No → Click 'Next']

Q 19. If the site appears to impose potentially unreasonable conditions, what are these?

Please tick all those conditions which apply, and/or choose 'Other' and copy the wording from the Terms and Conditions.

Click 'Next'

Deductions on cancellation refunds

Q 20. The DSRs require online retailers to refund the full cost of the goods - including the cost of outward delivery. Does the site appear to comply with this requirement?

Under the DSRs, sellers must refund the full price of the purchase, including the outward delivery charge; they may not deduct any 'restocking fee' or other charge.

- *Tick 'Yes' if the seller says that it will deduct only the cost of return delivery or collection, provided that the sum charged will be the actual cost (sellers may charge consumers for the cost of return delivery or collection by the retailer, provided that*

they say that they will do so, and that the cost charged does not exceed the actual cost of return or collection).

- *Tick 'No' if anything else is deducted.*
- *Also tick 'No' if the site says nothing about what will be deducted from the refund, or does not make it clear whether sums will be deducted*

Click 'Next'
[Yes → Q 22
No → Q 21]

Types of deductions on cancellation refunds

Q 21. Why does the site not appear to comply?

Please select all costs that are deducted.

- *If it is not made clear whether or not deductions will be made from the refund, tick 'Site is silent or unclear on what will be refunded'.*

Click 'Next'

Price

Now continue as if to make a purchase of the product you selected.

- *You may have to enter personal or payment details or to register with the site in order to do this, in which case, please refer to the guidance on pages 2-3 under 'Checking the sites'.*

Q 22. Does the final checkout price include any compulsory additions to the very first price you were shown?

When you have reached the final 'checkout' price, please refer back to the note you made of the price originally quoted, to see whether the two differ.

Click 'Next'
[Yes → Q 23
No → Q 24]

Types of additional charge

Q 23. Please specify types of all additional compulsory charges added

Please select all compulsory charges that have been added. You will already have stated in Q 13 whether it was made clear initially that charges would be added. Sellers should make it clear when the price is first quoted that compulsory additions will be made.

- *If the most basic (cheapest) delivery option carries an extra cost, tick 'Delivery charge'.*
- *Tick 'unavoidable card charge' if there is always a fee for using all types of payment card (even if the fee differs for different types of card).*

Click 'Next'

Unexpected additional charges

Q 24. In your opinion, does the final price include any additional charges which you were not expecting?


- Tick 'No' if no additions have been made, or if all additions were indicated when the price was shown.
- Tick 'Yes' if additions have been made **which you were not warned about when the price was first shown**, and provide a brief description.

Click 'Next'

Privacy and security

Q 25. Does the padlock symbol appear on the screen for all pages you encounter where personal or payment details are requested?

Businesses should ensure that personal and payment details are protected while they are being transmitted on the internet.

- One of the simplest methods of checking whether this is being done is by looking for the padlock symbol  or 'https' (rather than 'http') in the address, which verify that data sent via this internet connection is encrypted.
- If you are not able to view all pages (for example because you do not wish to enter card details), please exercise your discretion and make a judgement as to whether you are satisfied that personal details are being encrypted where necessary.

Click 'Next'

Other legislation

Q 26. While reviewing the site did you spot any possible breaches of other legislation?

Our focus is on compliance with the DSRs and ECRs. While we are not asking you to check the site for any other regulations, you may have spotted breaches of other legislation – e.g. UTCCRs, CPA, Sale of Goods Act, CMARs.

If you did notice any other apparent breaches that you think need to be recorded, please tick 'Yes'.

Click 'Next'
[Yes → Q 27
No → Q 28]

Other legislation - comments

Q 27. Please give a brief description of the possible breaches you identified of other legislation

Please outline any other breaches you spotted which were not covered by the specific questions in this survey.

Click 'Next'

Follow up action

Q 28. Do you plan to take any follow-up action in response to your findings (for example referral to Home Authority)?

Whether and how to follow up on any breaches you find is at the discretion of individual TSS.

[Yes → Q 30
No → Q 29]

No further action

Q 29. Why do you not plan to take further action?

If you chose 'No' to the previous question, you will be asked to state why.

Click 'Next'
[→ Q32]

Action planned

Q 30. Under what legislation do you plan action?

If you answered 'Yes' to Q 27, please tick all the pieces of legislation under which you plan to take action.

Q 31. What type of follow-up action do you anticipate?

Please state how you plan to take action. Home Authorities should be contacted in the first instance where breaches are found.

- *You should have received a template letter which you could adapt and use if you wish to contact colleagues in other Trading Standards Services.*
- *We have also supplied a template letter which Home Authorities may want to adapt and use if contacting businesses which appear to be in breach.*
- *When gathering evidence on a site, you may find it useful to take a screen print, or copy and paste the addresses of relevant pages.*

Click 'Next'

Comments

Q 32. If you have any other observations about the site you have surveyed, please write them here (optional).

Other observations – here you might want to include comments on:

- *Whether certain information was particularly hard to find.*
- *Whether particular questions were difficult to answer.*
- *Breaches of other aspects of the DSRs or ECRs that aren't covered by the questions. For example, some sellers offer cancellation rights which are broadly in compliance with the DSRs, but make exclusions which go beyond what the DSRs permit – such as 'all jewellery' or 'all food and drink products'.*

Click 'Next'

Finished – thank you

You have now finished the survey for the site you reviewed. Please make sure that you click 'Done' so that your answers are submitted to the OFT.

Click 'Done'

When you have finished checking all your sites, please let us know by emailing onlineshopping@oft.gsi.gov.uk.

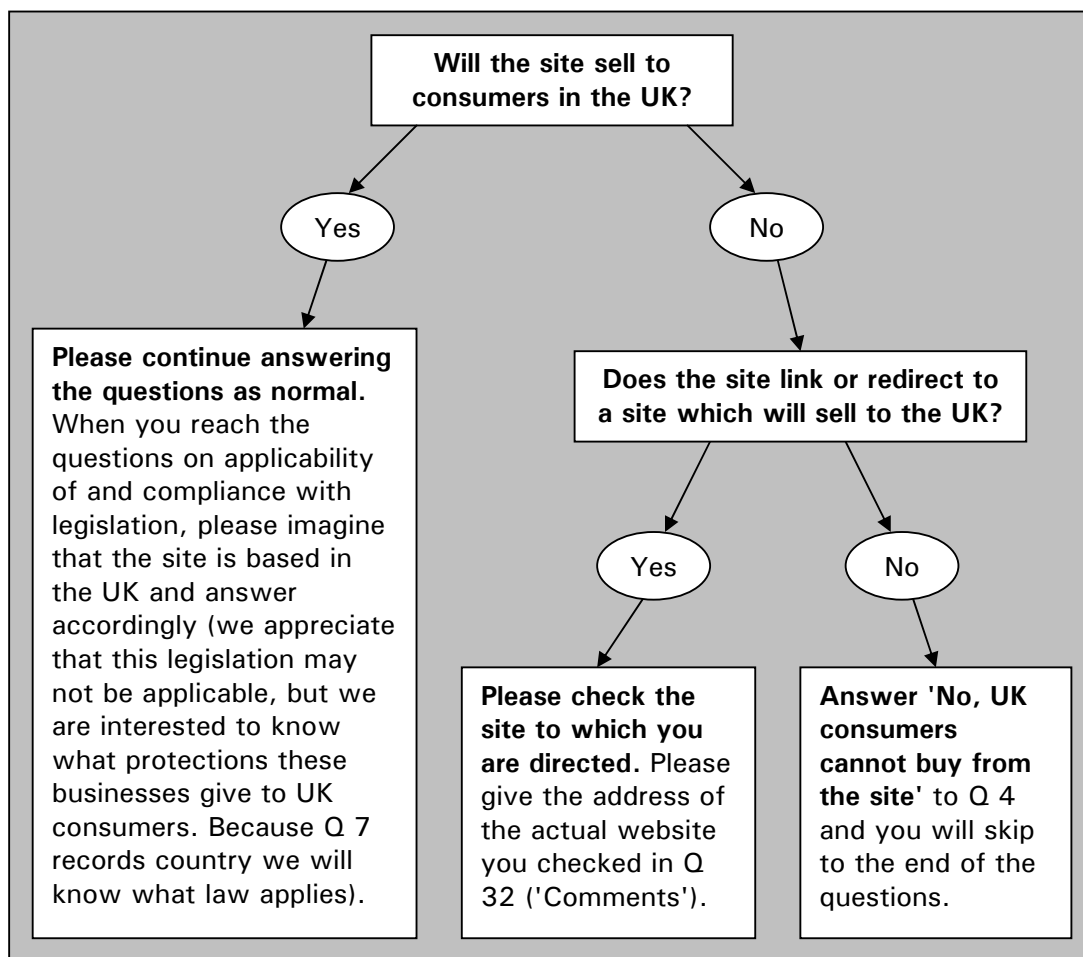
If you have time, and are willing to check further sites, we would be delighted if you could email us and let us know how many more you are able to survey. We will provide you with a list as soon as possible.

Thank you very much for your valuable assistance, and do contact us if you have any other questions or comments.

ANNEXE 4: SUPPLEMENTARY GUIDANCE ON APPROACH TO NON-UK SITES

If a site on your list which you have not yet checked is not based in the UK, please follow this flow diagram.

If you have already checked one or more non-UK sites, don't worry. There is no need to check them again.



ANNEXE 5: OPTIONAL CONTACT MATERIALS FOR TSS

TEMPLATE: STANDARD LETTER TO HOME AUTHORITIES

Dear *[insert]*

Compliance with the Regulations for Online Selling

We took part in the recent OFT-coordinated sweep of top retail sites to assess their compliance with relevant regulations.

As part of that exercise, we noted that the following site(s) may be breaching regulations in the following ways (see attached sheet). We believe that you are the Home Authority for the company concerned and are therefore sharing this information with you in case you wish to consider taking action.

[I would be very grateful if you could let me know whether you plan to take any action in this case].

Yours etc

WEBSITE 1

Website 1 URL	
Tick all that apply	
<input type="checkbox"/>	We were unable to find a contact email address
<input type="checkbox"/>	We were unable to find a geographic address
<input type="checkbox"/>	We found a PO Box address but not a geographic address
<input type="checkbox"/>	We did not find information about the applicable cancellation rights
<input type="checkbox"/>	We did not find information on the period during which cancellation rights could be exercised
<input type="checkbox"/>	The site appeared not to be offering the correct cancellation period
<input type="checkbox"/>	The website's terms and conditions stated that <i>[insert]</i> . These appear to restrict the consumers' right to reasonably inspect and assess the product
<input type="checkbox"/>	The website's terms and conditions indicated that the company would not refund the cost of outward carriage
<input type="checkbox"/>	The website's terms and conditions indicated that the company would seek to impose a restocking/administration fee when cancellation rights are exercised
<input type="checkbox"/>	OTHER:
<input type="checkbox"/>	OTHER:

	OTHER:
Other comments:	

WEBSITE 2

Website 1 URL	
Tick all that apply	
	We were unable to find a contact email address
	We were unable to find a geographic address
	We found a PO Box address but not a geographic address
	We did not find information about the applicable cancellation rights
	We did not find information on the period during which cancellation rights could be exercised
	The site appeared not to be offering the correct cancellation period
	The website's terms and conditions stated that <i>[insert]</i> . These appear to restrict the consumers' right to reasonably inspect and assess the product
	The website's terms and conditions indicated that the company would not refund the cost of outward carriage
	The website's terms and conditions indicated that the company would seek to impose a restocking/administration fee when cancellation rights are exercised
	OTHER:
	OTHER:
	OTHER:
Other comments:	

TEMPLATE LETTER TO BUSINESSES

Dear *[insert]*

Compliance with the Regulations for Online Selling

Following a websweep of leading online retail sites, co-ordinated by the Office of Fair Trading (OFT) and conducted between 3rd and 14th December, we identified some possible areas where your site may not be fully compliant with the applicable laws.

UK and other EU online retailers need to comply with the full range of relevant consumer protection legislation. This includes the Distance Selling Regulations (DSRs) – which apply to many but not all internet sales - and the E-Commerce Regulations (ECRs). Broadly speaking, for most purchases, these regulations give online shoppers:

- A right to know who they are dealing with / contact information
- Key information about what they are buying
- An unconditional right to cancel within seven working days, and to receive a full refund (including the original outward delivery cost)

Further guidance can be found at:

http://www.offt.gov.uk/advice_and_resources/small_businesses/distance-selling/

This includes a two-page note on key information for online retailers:

http://www.offt.gov.uk/shared_offt/business_leaflets/general/offt958.pdf

In relation to your web site at *[insert web address]*, in our review:

[Select/amend from the following list or customise according to the individual findings...or add other breaches, if found]

- We were unable to find a contact email address
- We were unable to find a geographic address
- We found a PO Box address but not a geographic address
- We did not find information about the applicable cancellation rights
- We did not find information on the period during which cancellation rights could be exercised
- The site appeared not to be offering the correct cancellation period
- The website's terms and conditions stated that *[insert]*. These appear to restrict the consumers' right to reasonably inspect and assess the product
- The website's terms and conditions indicated that you would not refund the cost of outward carriage
- The website's terms and conditions indicated that you would seek to impose a restocking/administration fee when cancellation rights are exercised
- **OTHER...**

We would welcome your response to the points raised in this letter by *[insert]*.

Yours etc.

ANNEXE 6: METHODOLOGY AND ADDITIONAL ANALYSIS OF WEB SWEEP RESULTS

1. INTRODUCTION

- 1.1. This annexe provides further background on the development and methodology of the web sweep. It also provides some further data on some of the findings, in addition to that provided in main report.

2. DEVELOPMENT

- 2.1 Before proceeding with the web sweep, the Office's Trading Standards Partnership Team asked Regional Co-ordinators to contact the authorities in their Regions to establish their capacity and interest in participating. Of the 197 authorities, 100 indicated that they would be willing to take part and were subsequently contacted by the OFT.
- 2.2 TSS officers have many responsibilities and are very busy. To minimise the effort required, therefore, the Office:
 - spread the load widely by asking each participating authority to check only six sites, and provided the list of which sites to check,
 - asked respondents to look for only some of the most critical information,
 - kept the likely time input to about six hours per authority by asking officers to spend no more than 45 minutes per site, on the grounds that if it took longer to find information then it was unlikely to be found easily by shoppers,
 - provided an online password-protected questionnaire⁴¹ which officers could log into to record their findings, and which was designed to lead them through the site review process – this questionnaire is reproduced at **Annexe 2**,
 - produced clear, detailed guidance (see **Annexes 3 and 4**) on how to complete the online questionnaire and step-by-step guidance on what to look for and how, as well as the key legal requirements,
 - supplied two optional generic template letters (see **Annexe 5**), to assist communication of findings and any follow-up work, by:
 - enabling participating authorities to advise Home Authorities of possible breaches by sites run by businesses in their areas, and

⁴¹ Online data collection enabled authorities to log on and record results whenever convenient during the period. It also enabled central data collection and live assessment of progress.

- helping Home Authorities to contact and give specific feedback and advice to firms whose sites might be breaching regulations
- provided central e-mail and telephone support during the sweep itself, as well as undertaking the subsequent analysis and reporting of the sweep's findings.

3. METHODOLOGY

- 3.1 The online questionnaire and accompanying guidance was piloted by TSS officers in a number of authorities during November 2007, as well as by contacts at the Trading Standards Institute (TSI) and the Local Authorities Coordinators of Regulatory Services (LACORS).
- 3.2 Firstly, we identified the top 1,000 retail sites, using September 2007 data from Hitwise.⁴² Once we knew that 100 authorities were willing to participate in the sweep, we selected the top 600 sites from the long list and randomly allocated six sites to each participating randomly, so that each site would be checked once.⁴³ Authorities were only told which six sites they had been allocated at the point that the sweep started.
- 3.3 The exercise focused on retail sites that sell products online to UK consumers (i.e. where consumers can order online, whether or not they pay online). For each site they reviewed, authorities were asked to choose which type of example product they would assess.⁴⁴
- 3.4 The sweep ran for a two week period, from 9am on Monday, 3 December to 5pm on Friday, 14 December 2007. It was designed to gather only some of the most critical information, reflecting the key findings of the market study. A total of 32 questions⁴⁵ were included in the questionnaire. These focused on the rights provided by the DSRs and ECRs, and on pricing transparency, and included:
- Whether the website allowed UK consumers to order products online

⁴² Hitwise (www.hitwise.co.uk) is an established supplier of data on internet traffic and provides figures for the number of visits to websites, classified by country, industry category (i.e. broad type of organisation), retail sector etc.

⁴³ In other words, if all 100 authorities checked all six sites allocated to them, a maximum of 600 sites would be reviewed in the exercise.

⁴⁴ There were some exceptions to the coverage of the sweep. For instance, travel was excluded because different regulations apply (e.g. buyers do not have cancellation rights). The sweep also did not cover auction sites, nor traders not selling online to UK consumers, or only selling to other businesses. The guidance at Annexe 3 provides a more detailed explanation of the sweep's coverage and methodology.

⁴⁵ Although routing meant that most reviews of sites required far fewer questions to be answered by respondents.

- Details of business assessed - including whether the contact details required by regulations (geographical address, email address) were provided,
- Whether the correct information was given on cancellation rights – specifically:
 - correct cancellation period according to the product, and
 - no restrictions on consumers' ability reasonably to inspect the product
- That refunds included the cost of outward delivery,⁴⁶
- Whether originally quoted prices indicated that further compulsory charges would be added to the final price,
- Possible breaches of legislation other than DSRs and ECRs,
- In addition to these rights, whether sites were, as a minimum, using secure encrypted links when shoppers were asked to enter personal details, and
- Any follow-up actions planned by the TSS reviewer.

3.5 The majority of the questions required a box, or multiple boxes, to be ticked. The questionnaire also provided a number of free-text boxes to allow respondents to elaborate on their answers and include any other observations they thought were relevant. The online questionnaire is reproduced at **Annexe 2**.

3.6 However, TSS officers also had the opportunity to record any potential breaches of other legislation, as well as any other observations about the sites that they reviewed.

3.7 The exercise aimed to gauge the extent of compliance up to, but not including, the point of purchase (although TSS participants could choose to make test purchases if they wished).

3.8 The results relate to the retail websites most visited by UK consumers, and therefore the potential experiences of a large proportion of UK internet shoppers. However, because the selection of retail websites was deliberately focused on the largest, the findings cannot be used to make inferences about websites in general⁴⁷ Statistical techniques have not been applied to the results: weighting the results to reflect the behaviour of all retail websites visited by UK consumers is not possible given that our sample was not drawn randomly from a list of the

⁴⁶ See 'A guide to businesses on distance selling' published by the OFT in September 2006, at 3.48.

⁴⁷ The web sweep reviewed 530 sites. However, the OFT's study of internet shopping noted that an estimated 62,000 businesses were selling online to households in 2005. This number is likely to have grown since. See paragraph 2.11 of 'Internet Shopping: An OFT market study' (OFT, June 2007).

whole population of sites; and a comprehensive list of such sites does not exist in any case.

- 3.9 It is important also to note that the assessments represent the expert judgement of TSS officers, but that given the number of participants and the inevitable time limits placed on the assessments there may be some variations in how different officers might have assessed sites, as well as the potential for some information to be missed (for instance, if it was on a hard-to-find page). Other than preparing the data for analysis,⁴⁸ we did not double-check returns.
- 3.10 In addition, the reviews do not necessarily capture where sites may be exceeding the regulatory requirements. Likewise, they do not capture potential breaches that might only become evident once a consumer has ordered an item (for instance, failure to provide information in a 'durable medium' on how to exercise their right to cancel).
- 3.11 Furthermore, it was not practical to consider every regulatory requirement relevant to the websites. Instead the analysis focuses on a few key indicators. Also, the assessments represent a snapshot of the sites at a specific point in time. The information on some sites may have changed since the sweep (especially if TSS officers have followed up findings). Finally, the reviews do not necessarily capture where sites may be exceeding the regulatory requirements.
- 3.12 On announcing the sweep, the Office made clear that its analysis and reporting would be a high level analysis of its findings, and not 'naming and shaming' specific businesses. However, where TSS officers identified apparent breaches, it would be for them to decide how to address them on a case by case basis.

⁴⁸ For instance, there were a small number of duplicate returns, where respondents had started to review a site but then had to restart after they lost connection. These were removed before the analysis was undertaken.

4. ADDITIONAL DETAILED RESULTS⁴⁹

TSS Participation and sites assessed – further information

- 4.1 Of the 600 sites originally identified for assessment, 60 were not assessed because 10 authorities were unable to participate as planned. Furthermore, not all participating authorities were able to complete analysis of all of the six sites allocated to them, with the result that a further 10 sites were not assessed. There is, however, no reason to suspect that the 70 sites for which assessments are missing should be systematically different from those that were checked.⁵⁰
- 4.2 Of the 530 sites assessed, 485 of the retailers were based in the UK, while 14 were based elsewhere in the EU⁵¹ and therefore subject to a common regulatory framework. The results reported in the core of this annexe relate to these 499 sites based in the UK or other Member States.
- 4.3 Table 1 shows the number of participating TSS and websites assessed by region. Although there was some variation in the proportion of TSS per region that participated, all regions were represented.

Table 1: Number of participating TSS and websites reviewed by region

Region	Number of TSS	Number of participating TSS	Number of websites assessed	
			EU-based	Non-EU based
Central England	14	7	36	6
East of England	10	4	23	1
London	32	19	103	8
North East	12	2	9	0
Scotland	32	11	62	3
South West	15	11	64	2
East Midlands	8	7	40	1
North West	22	9	46	7
South East	19	10	57	3
Wales	22	1	6	0
Yorkshire and Humber	11	8	47	0
Northern Ireland	1	1	6	0
Total	198	90	499	31

- 4.4 Some 89 per cent of the EU-based sites reviewed allowed consumers to order products online (the definition of internet shopping adopted in our market

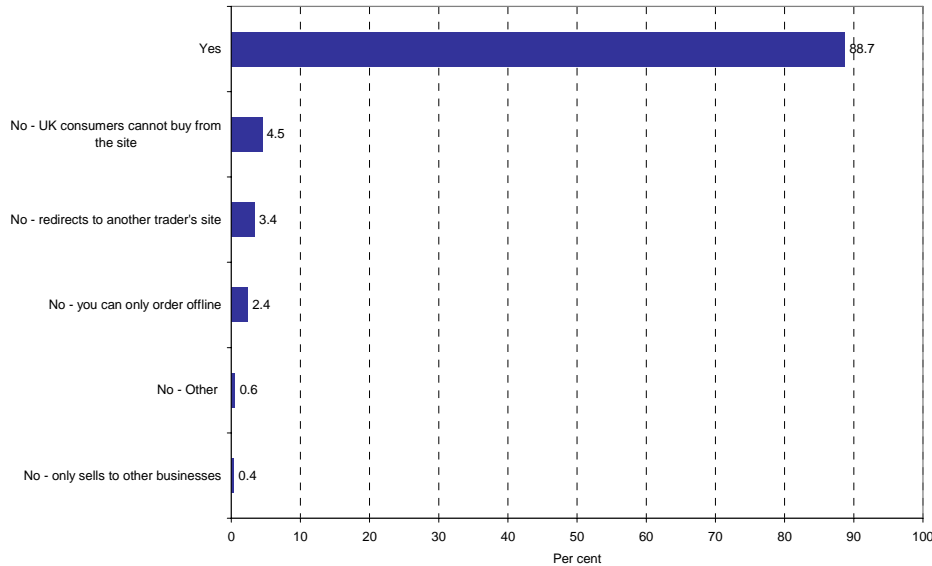
⁴⁹ Results corresponding to cell sizes below 15 are omitted throughout the analysis. In some cases, percentages may not add up exactly to 100 due to rounding.

⁵⁰ Missing sites were relatively evenly distributed across the 600. There were: 4 missing in the top 100; 13 in the 101-200 range; 15 in the 201-300 range; 18 in the 301-400 range; 8 in the 401-500 range; and 12 in the 501-600 range.

⁵¹ These retailers were in the following countries: Belgium (2), Finland (1), France (1), Germany (2), Ireland (2), Italy (1), Luxembourg (2), Sweden (2), Netherlands (1).

study).⁵² We excluded from our analysis a further 60 sites that did not allow UK consumers to buy from them, redirected shoppers to another site, only sold to businesses, or only allowed orders to be made offline (for example by telephone) – see Figure 1. Unless otherwise stated, results reported hereafter and in the main report relate to these remaining 439 sites.

Figure 1: Does the site allow UK consumers to order products online?



Notes:

1. Base: All businesses (n = 499)
2. Analysis excludes missing answers

Provision of business contact details – further information

4.5 Of the 439 EU-based businesses selling online to UK consumers, 412 (94 per cent) listed a physical address on their site, while 27 (6 per cent) gave no physical address. Of the sites giving a physical address, most (88 per cent) provided a full geographical address only; eight per cent provided a PO Box address only; and both types of addresses were available on four per cent of the sites.⁵³ We estimate that around 14 per cent of the sites assessed provided no geographical address (by providing no address or by providing a non-geographical PO Box number).

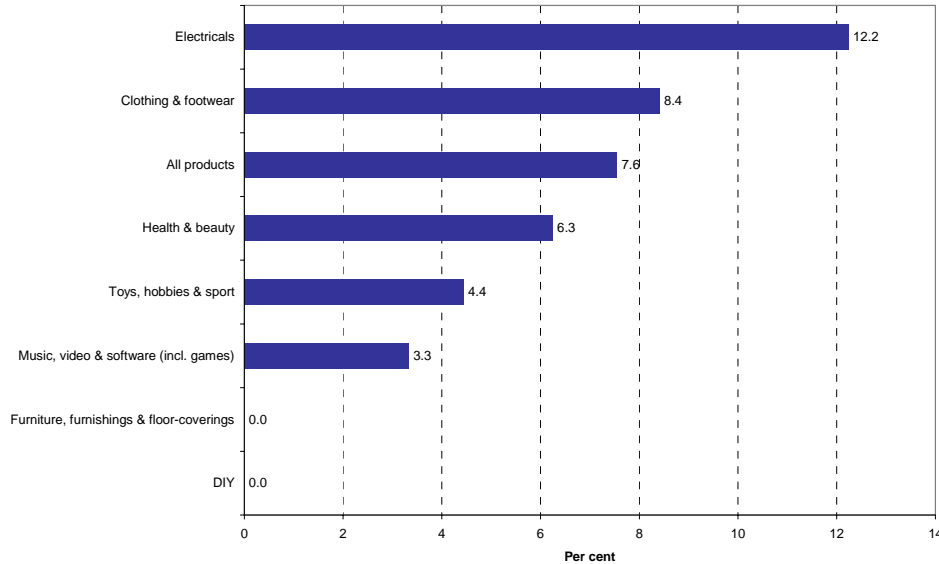
4.6 Sites where the item assessed was Electrical were most frequently reported as not providing a full geographic address (12 per cent of such sites did not do

⁵² See paragraph 1.13 of 'Internet Shopping: An OFT market study' (OFT, June 2007).

⁵³ Excluding missing answers.

so),⁵⁴ followed by those where the items were Clothing and Footwear (8 per cent), and Health and Beauty (6 per cent).⁵⁵ See Figure 2.

Figure 2: Proportion of sites reported as not providing a full geographic address (by type of product assessed)



Notes:

1. Base: All businesses that sell online and provide a physical address on their websites (n = 412)
2. Analysis excludes missing answers
3. Results for sites selling Books, Flowers and Gifts, Food and Grocery, Office Supplies and Stationery, Home-wares and Automotive products have been omitted – cell sizes too small (< 15) for estimates to be reliable.

4.7 The questionnaire also asked TSS officers to indicate whether they could find an email address or contact web form on the sites they were assessing. The results showed that of the 439 sites assessed:

- 202 (46 per cent) provided an email address only
- 134 (30 per cent) provided a web form only
- 87 (20 per cent) provided both email address and web form
- 16 (4 per cent) provided neither

4.8 This suggests that 34 per cent of the sites assessed (150 out of 439) may be breaching the regulations regarding the provision of an email address.⁵⁶ Again,

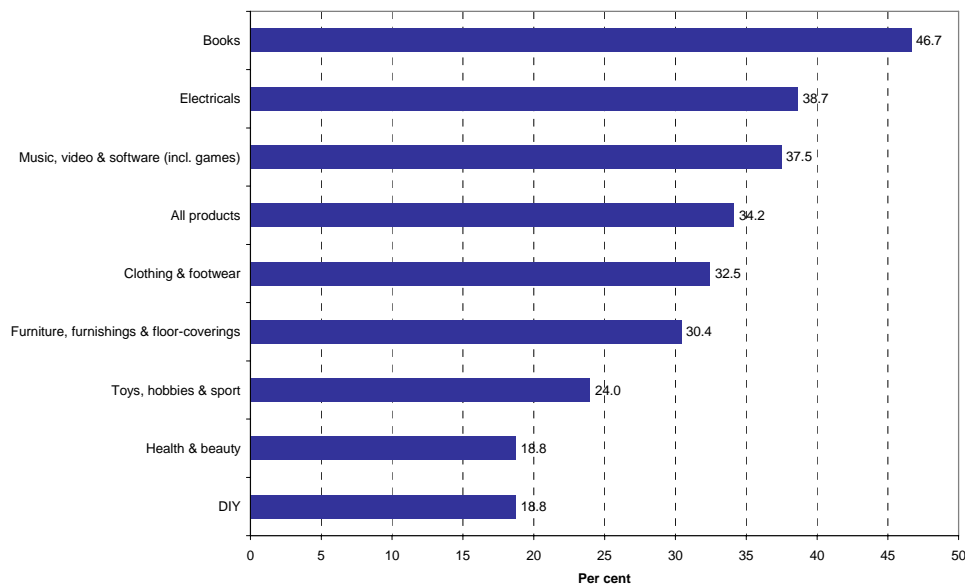
⁵⁴ In other words, of the sites assessed where the product was an electrical item, 12 per cent did not provide a full geographic address.

⁵⁵ The analysis by product type is according to the product selected by the TSS Officer. Although respondents chose a 'typical' product, the product that they chose may not be representative of the whole range of products sold on the site they were assessing.

⁵⁶ It should be noted that the web sweep exercise did not involve a test of whether those sites that did provide contact details responded directly and effectively to communications.

sites where the product assessed was an electrical item were found to be amongst the most frequently reported to appear to breach regulations (see Figure 3 below). It is notable that sites where the product assessed was DIY-related appeared the least frequently reported to potentially breach regulations - not only with regard to the provision of a full geographic address, but also with regard to the provision of an email address. Figure 4 summarises the survey results relating to contact details provision.

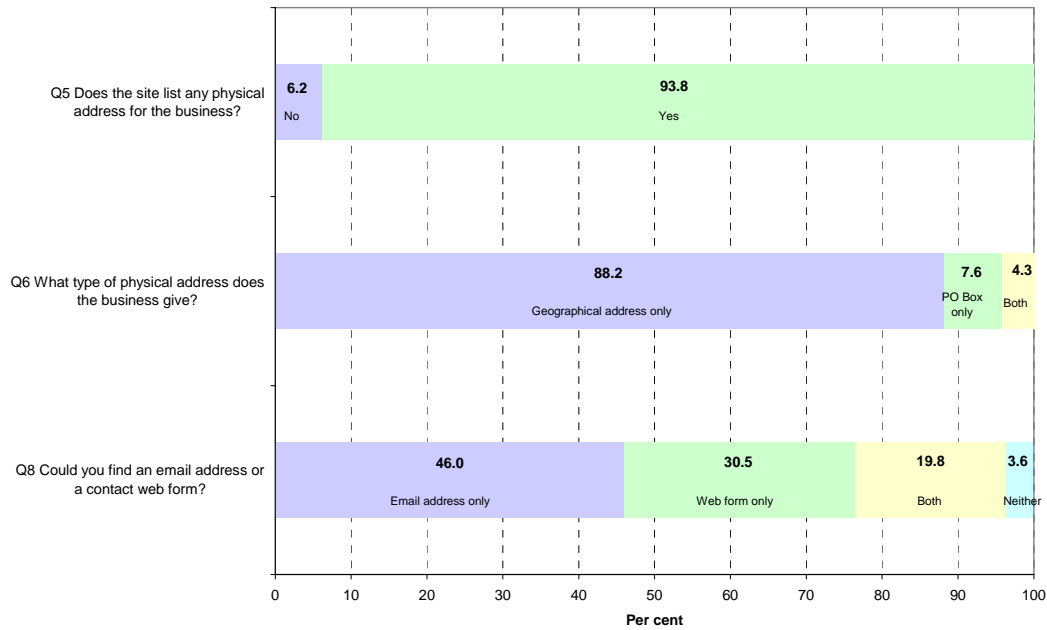
Figure 3: Proportion of sites not providing an email address (by type of product assessed)



Notes:

1. Base: All businesses that sell online (n = 439)
2. Analysis excludes missing answers
3. Results for sites selling Flowers and Gifts, Food and Grocery, Home-wares, Office Supplies and Stationery and Automotive products have been omitted – cell sizes too small (< 15) for estimates to be reliable.

Figure 4: Contact detail provision



Notes:

1. Base: Q5, Q8.. All businesses that sell online (n = 439), Q6: All businesses that sell online and provide a physical address on their websites (n = 412)
2. Analysis excludes missing answers

Additional charges – further information

4.9 Our survey sought to establish the level of clarity concerning the pricing of products sold online by asking respondents to record whether: a) when they were first shown the price, the website made clear that compulsory additional charges would be added to the initial price quoted; and b) whether the website subsequently added compulsory charges at the checkout stage of the transaction. Table 2 shows that for products on more than half (51 per cent) of the sites assessed, the final prices were reported to be higher than the price initially quoted, as a result of a compulsory charge.

Table 2: Compulsory additional charges – Question 12 v Question 22

Product type	Q12 When you are first shown the price, is it indicated that there will be compulsory additional charges that are not included in the initial price?		Q22 Does the final checkout price include any compulsory additions to the very first price you were shown?	
			Yes	No
Books	Yes	13 per cent	20 per cent	
	No	27 per cent	40 per cent	
Clothing and Footwear	Yes	13 per cent	12 per cent	
	No	50 per cent	25 per cent	
DIY	Yes	6 per cent	11 per cent	
	No	44 per cent	39 per cent	
Electricals	Yes	9 per cent	19 per cent	
	No	33 per cent	39 per cent	
Furniture, Furnishings and Floor-coverings	Yes	17 per cent	17 per cent	
	No	30 per cent	35 per cent	
Health and Beauty	Yes	0 per cent	13 per cent	
	No	56 per cent	31 per cent	
Music, Video and Software	Yes	5 per cent	13 per cent	
	No	23 per cent	60 per cent	
Toys, Hobbies and Sport	Yes	8 per cent	14 per cent	
	No	43 per cent	35 per cent	
All	Yes	11 per cent	15 per cent	
	No	40 per cent	34 per cent	

Notes:

1. Base: All businesses that sell online (n=439)
2. Analysis excludes missing answers
3. Results for sites selling Flowers and Gifts, Food and Grocery, Office Supplies and Stationery, Home-wares and Automotive products have been omitted – cell sizes too small (<15) for estimates to be reliable.

4.10 The most common compulsory charges added to the final price were delivery charges (reported in 95 per cent of the sites assessed), followed by VAT charges (11 per cent) – see Table 3.

Table 3: Types of compulsory additional charges – Question 13 v Question 23

Types of compulsory additional charges	Q13 – When first shown the price	Q23 – At final checkout
Delivery charge	82.0 per cent	95.0 per cent
VAT	18.9 per cent	10.8 per cent
Other tax or duty	1.8 per cent	0.5 per cent
Unavoidable card charge	0.0 per cent	0.5 per cent
Other	9.0 per cent	4.5 per cent

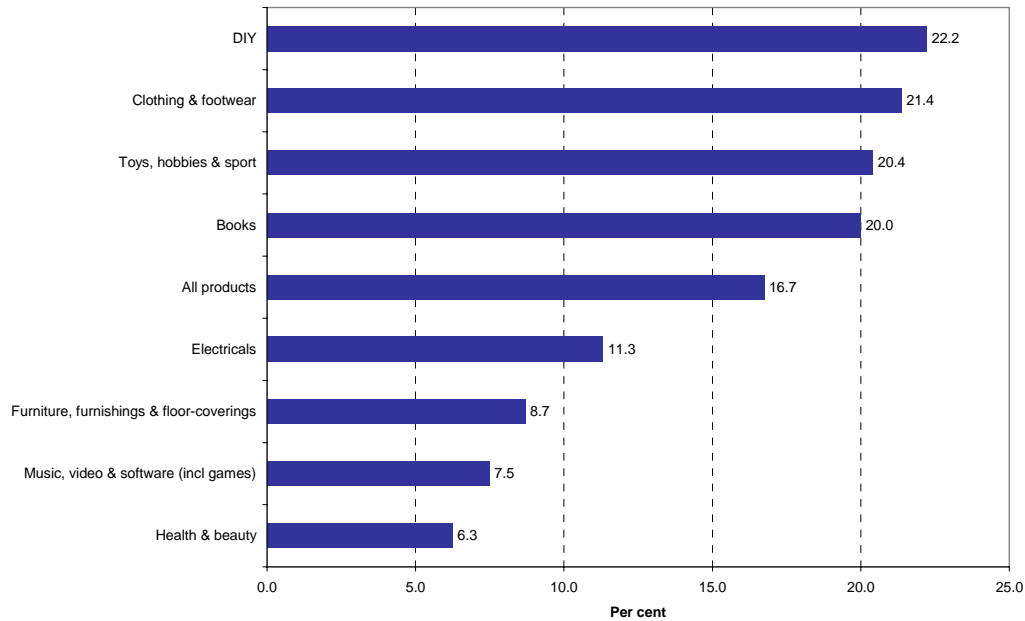
Notes:

1. Base: All businesses that sell online (n=439) for which Q12 = 'Yes, additional charges are indicated on the page' and Q23 = 'Yes, the final price is higher' apply.
2. Analysis excludes missing answers
3. Totals may add to greater than 100 per cent because of acceptance of multiple answers
4. Other includes charges such as transfer fees, requirement for monthly subscription etc.

4.11 The questionnaire also asked TSS officers to state whether the final price included any additional charges that they were not expecting. The results showed that unexpected charges were a feature of some 17 per cent of the sites assessed. This was more likely to occur on sites selling DIY, Clothing and Footwear, Books and products related to Toys, Hobbies and Sport (see Figure 5).

In about 70 per cent of the cases, these potentially unexpected charges involved delivery charges. The results did not appear to be sensitive to the size/popularity of business as measured by Hitwise.

Figure 5: Proportion of sites including unexpected additional charges in the final price (by type of product assessed) – in the opinion of the TSS assessor



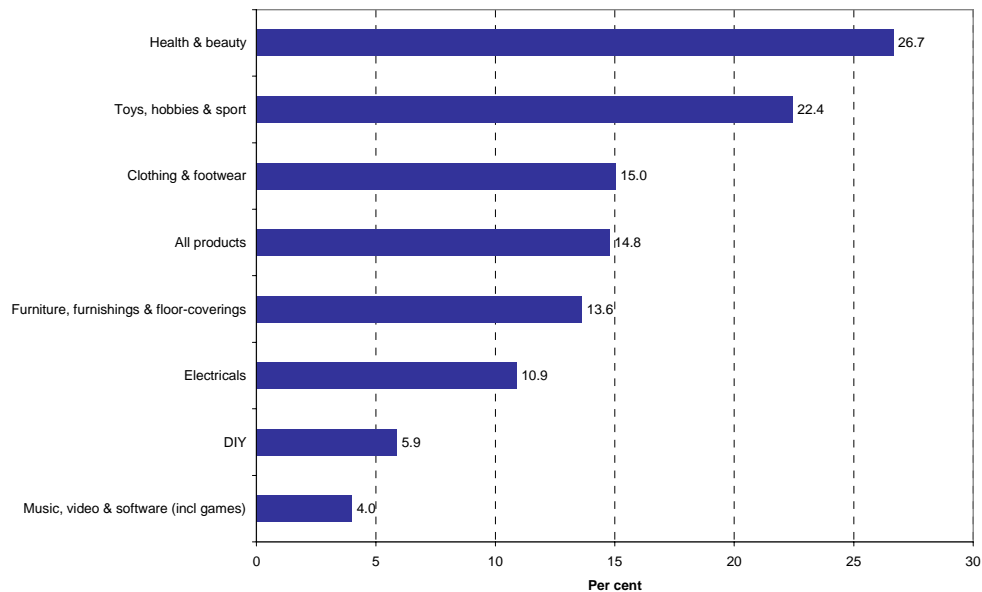
Notes:

1. Base: All businesses that sell online (n = 439)
2. Analysis excludes missing answers
3. Results for sites selling Flowers and Gifts, Food and Grocery, Home-wares, Office Supplies and Stationery and Automotive products have been omitted – cell sizes too small (< 15) for estimates to be reliable.

DSRs applicability and compliance: cancellation rights – further information

- 4.12 Looking at whether the DSRs applied to the product being assessed, the results were similar across different types of products. In addition, factors such as the popularity of the website (as measured by Hitwise) or the regional location of the business did not produce very different results.
- 4.13 Sites selling Health and Beauty and Toys, Hobbies and Sport products appeared to be the most often reported potentially to breach regulations by not providing consumers with information on cancellation rights – see Figure 6.

Figure 6: Proportion of sites apparently not providing consumers with information on the right to cancel (by type of product assessed)



Notes:

1. Base: All businesses that sell goods online and for which cancellation rights in the DSRs apply to the products in question (n = 392)
2. Analysis excludes missing answers
3. Results for sites selling Books, Flowers and Gifts, Food and Grocery, Home-wares, Office Supplies and Stationery and Automotive products have been omitted – cell sizes too small (< 15) for estimates to be reliable.

4.14 Overall, in terms of providing the correct information on cancellation rights, the data showed that:

- The cancellation rights in the DSRs applied to the product in question in 392 sites
- Of those 392 sites, there were 58 sites (15 per cent) that did not provide consumers with information on the right to cancel
- Of the remaining 334 sites that did provide info on the right to cancel, there were: a) 23 sites that did not mention the correct cancellation period, b) 106 sites that imposed potentially unreasonable restrictions on cancellation refund rights and c) 22 sites that did not mention the correct cancellation period and imposed potentially unreasonable restrictions on cancellation refund rights.

4.15 In total, of the 392 sites for which the cancellation rights in the DSRs applied to the products they were selling, 209 (53 per cent) appeared to be in breach of regulations in terms of: 1) not complying with the DSRs by providing consumers with info on the right to cancel; or 2) not mentioning the correct cancellation period and/or 3) imposing restrictions on cancellation refund rights.

Other legislation – further information

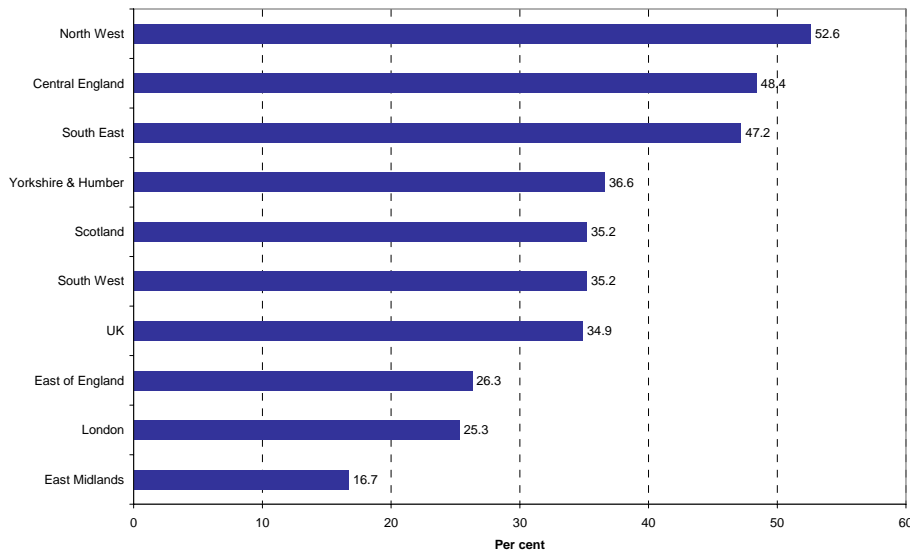
4.16 The results showed that potential breaches of other legislation were present in some 16 per cent of the sites assessed. The large majority of these related to the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs) and the Consumer Protection Act 1987 (CPA). Other potential breaches of legislation identified come under the scope of Video Recordings Act 1984, the Price Marking Order 2004 and the Sale of Goods Act 1979.

4.17 Sites with headquarters based in East of England and East Midlands were more often cited as possibly breaching 'other' legislation than sites based in other regions.

Follow-up action – further information

4.18 TSS reviewers based in the North West, Central England and South East regions were the most likely to plan taking follow-up action in response to their findings (Figure 7). TSS were more likely to be approaching the local authority TSS for businesses with headquarters located in East of England and Central England (Figure 8).

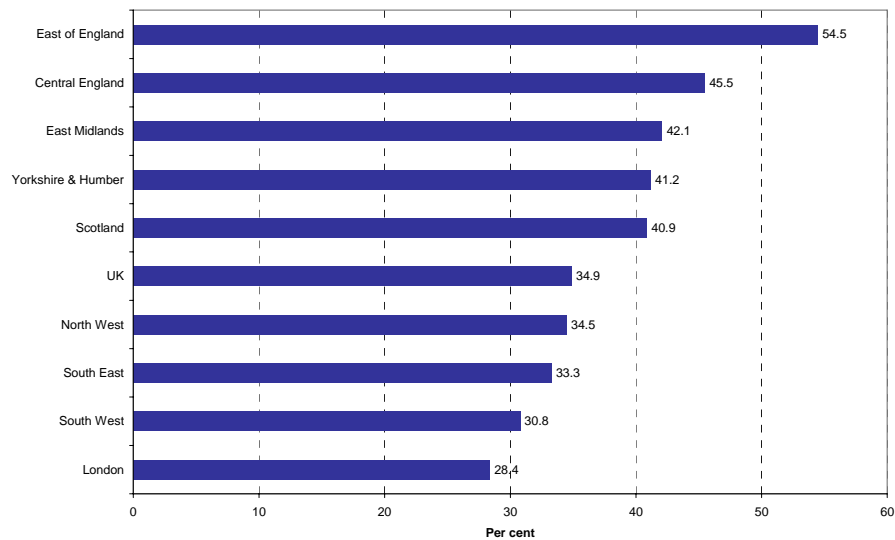
Figure 7: Proportion of sites for which the TSS reviewer planned follow-up action (by region in which TSS reviewer was based)



Notes:

1. Base: All businesses that sell online for which follow-up action was planned, as a result of TSS findings of regulation breaches (n = 152). Analysis excludes missing answers
2. Results for North East, Wales and Northern Ireland have been omitted – cell sizes too small (< 15) for estimates to be reliable.

Figure 8: Proportion of sites for which follow-up action is planned (by region in which the retailers' Home Authority was based)

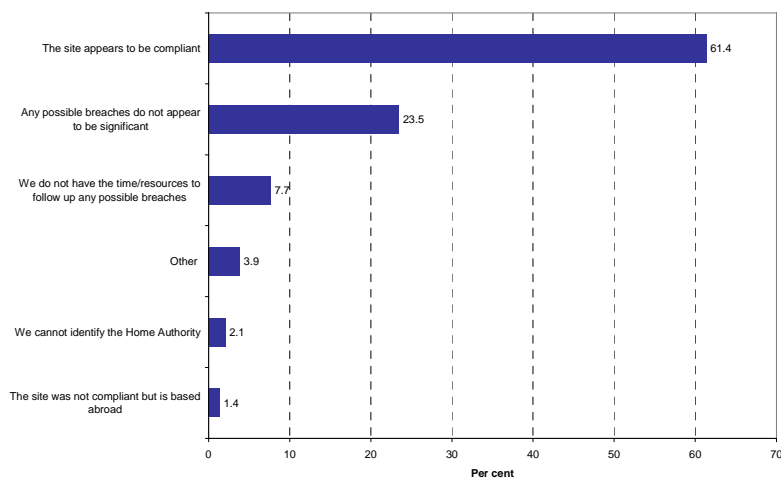


Notes:

1. Base: All businesses that sell online for which follow-up action was planned, as a result of TSS findings of regulation breaches (n = 152). Analysis excludes missing answers
2. Results for North East, Wales and Northern Ireland have been omitted – cell sizes too small (< 15) for estimates to be reliable.

4.19 Turning to those sites for which no follow-up action was planned by TSS, the questionnaire found that the main reason was either because the businesses appeared to be compliant or that the possible breaches were not significant enough to justify further action. The full breakdown of responses to the question of why no further action was planned is given in Figure 9

Figure 9: Why did TSS respondents decide not to take further action?



Notes:

1. Base: All businesses that sell online for which no follow-up action was planned (n = 283)
2. Analysis excludes missing answers

Non-EU based sites – further information

4.20 Of the 530 sites assessed, 31 were based outside the EU. Fourteen were based in the U.S., 9 in the Channel Islands⁵⁷ and the remaining 8 in the Isle of Man, Taiwan, Switzerland, Singapore, Russia, Hong Kong, Australia and China.

4.21 All 31 non-EU based sites allowed consumers to order products online. Of these, 26 were selling goods and five were selling services. The breakdown of the 31 sites by products sold is given in Table 5 below.

Table 5: Number of non-EU based websites (by type of product assessed)

<u>Product type</u>	<u>Number of websites</u>
Automotive	1
Books	2
Clothing and Footwear	3
DIY	0
Electricals	3
Flowers and Gifts	0
Food and Grocery	1
Furniture, Furnishings and Floor-coverings	1
Health and Beauty	4
Home-wares	0
Music, Video and Software	13
Office Supplies and Stationery	0
Toys, Hobbies and Sport	3
All	31

⁵⁷ There were five sites based in Jersey and four in Guernsey. Currently, regulations similar to the DSRs are not in force in the Channel Islands, although similar regulations are due to be introduced to Jersey in 2008.