

**Office of Communication's Consumer Policy –
a consultation response by the Office of Fair Trading.**

Introduction

The OFT welcomes the opportunity to respond to this consultation. As a non-ministerial Government department, the OFT is responsible for making markets work well for consumers and fair dealing businesses. We want consumers to be able to make informed choices between suppliers competing for their custom. Businesses which are good at delivering what consumers want then prosper and enhance the productivity and competitiveness of the economy as a whole.

We have opted to answer not all but various specific questions raised in your consultation. Our views and comments are laid out below and we hope that you will find these useful.

Ofcom's Position on Vulnerable Consumers (Q2)

The OFT agrees that each of us may be vulnerable to harmful supplier behaviour at one time or another. OFT has identified a range of causal factors contributing to a person's 'vulnerability' beyond the classic, simple and overused factors of age/disability/nationality etc. Our research shows that consumers most likely to suffer detriment are those who have the following characteristics:

- have low educational attainment,
- have poor English or literacy (immigrant groups),
- are in financial distress,
- have a limited understanding of their rights,
- do not understand the products/services they need (e.g. have little understanding of cars/hi-tech equipment etc),
- are too busy to read small print/pursue complaints,
- are gullible/too trusting,
- are cash rich but time poor (time pressured),
- lack confidence/are easily intimidated,
- are passive,
- have a limited amount of information about the business they are dealing with,
- are heavily reliant on a particular product or service and unable to survive comfortably without it for a period of any length,
- are socially isolated.

We are conducting a trial with new complaints to see if complainants who exhibit these characteristics are more susceptible to detriment.

The Proposed High Level Objectives (Q3)

The OFT agrees with OFCOM's proposed high level objectives for its consumer policy. Specifically:

Integration with competition policy

Just as competition promotes customer focus within firms and encourages innovation, choice and value, so confident and demanding consumers drive competition between firms and higher standards by seeking out new products and best value. Strong competition and open markets assist in providing good information flow to inform and protect consumers. When confident and demanding consumers meet efficient and customer-focussed sellers, there is less need for regulatory intervention. A balanced and integrated approach to consumer and

competition policies can best encourage such well-functioning markets and reduce the need for regulation and enforcement over time.

Consumer Empowerment

The OFT strongly believes that empowering consumers is one key facet to the successful operation of markets. If consumers know their rights, they know when they have been wronged and feel empowered to seek redress. Sometimes resolution can be easily achieved through negotiation with the business, or under a self-regulatory code of practice. In other cases it may, as a last resort, require intervention by a regulatory body.

Consumer Protection

As an independent professional organisation, the OFT plays a leading role in promoting and protecting consumer interests throughout the UK.

Our Consumer Regulation Enforcement team:

- ensures that consumer legislation and regulations are properly enforced
- takes action against unfair traders
- encourages codes of practice and standards
- offers a range of information to help consumers understand their rights and make good choices
- liaises closely with other regulatory bodies that also have enforcement powers.

Proposed Indicators (Q4)

The OFT agrees with monitoring consumer interests against proposed indicators (a benchmark approach). Our current benchmarks are:

- Consumers' judge that markets deliver more and better choices • • • •

consumers and business judge market abuses have been addressed

business judges that barriers to fair and open markets are being addressed

consumers and business have better understanding of their rights and objectives under competition and consumer law

partners and other stakeholders judge that we operate in accordance with our values.

Annual Report on the Consumer Interest (Q5)

For the reasons identified in their consultation, OFT broadly agrees that Ofcom should publish a report on the Consumer Interest.

Characteristics of Effective Consumer Protection (Q6)

OFT agrees with the characteristics identified of an effective system of consumer protection. We believe an effective consumer protection regime reduces consumer detriment and encourages high standards of business behaviour while reducing burdens on fair dealing businesses.

Assessments and Priorities for Rights and Regulations (Q 7)

For the reasons identified in their consultation, OFT broadly agrees with Ofcom's assessment and priorities for rights and regulation.

Assessments and Priorities for Consumers' Awareness (Q 8)

OFT agrees with the assessment and priorities regarding consumers' awareness. OFT's mission is to make markets work well for consumers. Markets work well when, amongst other things, consumers are confident, empowered, know their rights and are able to make informed choices or, where appropriate, have the necessary protection.

As set out in our annual plan we are committed to tackling mass-marketed scams: We run an annual scams campaign (simultaneously with our international partners in ICPEN) in February/March. In addition, our focus throughout 2006-07 will continue to be on enforcement and educating consumers to recognise the tell-tale signs of a scam as well as telling them about specific scams.

Assessments and Priorities for Complaints Handling and Redress (Q 9)

Direct settlement between consumers and business should be the preferred route to reaching resolution on disputes. A key to ensuring the success of direct settlement is the provision of support, through guidance and training to front line consumer advisors in addition to raising awareness of consumer rights generally with consumers. The OFT, including Consumer Direct, supports this objective by empowering consumers and by supporting business in improving customer service and dispute resolution through negotiation with consumers.

Furthermore, where consumer rights are extended, the OFT believes measures are necessary to support the use of these rights. These should include awareness campaigns for consumers, improved levels of consumer education, training for consumer advisors, and clearly signposted ADR schemes.

The OFT advocates effective self-regulation: voluntary codes of conduct are effective mechanisms for promoting compliance. Self-regulation can act as an impetus for best-practice, encouraging traders to raise standards of behaviour above the legal minimum requirement. A consumer protection framework can only benefit from closer involvement of representative trade bodies since they are well placed to identify failure to resolve complaints.

OFT operates the Consumer Codes Approval Scheme (CCAS). The aim of the CCAS is to promote and safeguard consumers' interests by helping consumers identify better businesses and to encourage businesses to raise their standards of customer service.

The scheme consists of two co-dependent stages. Code sponsors complete Stage One by making a promise that their code meets the core criteria in principle. They can then move on to Stage Two where they have to demonstrate (with evidence)

that their codes deliver on that initial promise. OFT endorsement and promotion to the consumer kicks in once the burden of proof has been met by the code sponsor.

We invite interested code sponsors to contact us to register their interest in submitting a code under the scheme. We will prioritise our resources to deal with applications that provide the greatest benefit to consumers.

The OFT provides support for Consumer Direct, a telephone and online consumer advice service. At present, Consumer Direct does not offer advice on utility related enquiries, however DTI are consulting on proposals to develop Consumer Direct further to become a single source of advice for all types of consumer enquiry.

Consumer Direct is benefiting consumers, by addressing an unmet demand for advice and empowering consumers to solve their own problems. Our response to this consultation, Strengthen and Streamline Consumer Advocacy, can be found at <http://www.ofg.gov.uk/NR/rdonlyres/AE1AE8EB-3C96-453C-901E-D0AD3F9D7926/0/ofg843.pdf>

To summarise, on a level of broad principle, we support DTI's proposals to broaden the scope of Consumer Direct's remit so that it encompasses issues where they occur in relation to the utilities markets. However, it is vital that there are other support services in place for handling more complex cases, supporting vulnerable consumers, providing face-to-face help and intervention on behalf of the consumer when necessary.

The DTI consultative document also asks whether further incentives on suppliers are required to secure improved standards in handling consumer enquiries and complaints, such as additional licensing requirements or statutory targets. As stated in our response, further regulation is unlikely to act as an appropriate incentive. Some problems will require immediate resolution, for example, where a disadvantaged consumer has been disconnected from a vital service. In this regard, there is a clear need to ensure that regulatory bodies are aligned much more closely with the DTI's proposed new arrangements to ensure that they are well-placed to intervene swiftly where appropriate.

Where initial negotiations between consumers and business fail to bring about a direct settlement, the OFT would be supportive of any proposals which empower and extend the ability of consumers to seek redress, for example, via an easily accessible ombudsman scheme. The OFT believes that formal action, e.g. through the courts, should be a last resort. It is a process that can be resource intensive and costly, and one that many consumers perceive as being inaccessible or too daunting for them to use.

Ofcom's approach to the provision of Consumer Information (Q 11)

The OFT agrees that Ofcom should not have a primary role in improving information flows between suppliers and consumers. Businesses should be responsible for their own marketing and should be free to independently build their own reputations within their respective markets. Intervention in supplier-consumer information flows should only occur based on evidence and where there is a clear and defined need in respect of reducing an identified form of consumer detriment.

OFT welcomes Ofcom's continued development of the Consumer Advice section of its website. We would also like to suggest alternative and cost effective methods for communicating specific consumer advice and for building up the long term skill set of consumers (particularly the elderly and vulnerable) such that they are further empowered to independently deal with problems when they arise.

As you have correctly identified as a result of your research into consumers' awareness of 'switching' opportunities and processes, there is a challenge to specifically raise awareness among elderly and vulnerable groups. Such groups are often not easily reached through online communication (emails, websites etc...) but they can be influenced in other ways.

We agree with your sensible observation that older people are most heavily influenced by their family and friends and we would suggest that some benefit might be gained by focussing messages on the Consumer Advice section of your website specifically at the friends and family of older consumers.

When OFT targets older people we also make as much use as we can of partner organisations, eg: Age Concern, Help the Aged and the Women's Institute, as well as producing large print material. And for press work we seek out celebrities from the target age range.

Targeted publicity campaigns can be costly but the OFT believes that there is great benefit in inter-departmental collaboration in this area. As such, our publicity team would be happy to discuss the potential for Ofcom and OFT to work together in future and to explain the nature and functions of the Consumer Education Alliance which is currently headed by OFT. Additionally, the Central Office of Information can provide best practice on how to identify and subsequently focus on key target audiences for government communications campaigns. The following link will provide you with further information <http://www.commongoodresearch.gov.uk>

Comparative Price Information (Q14)

We note in paragraph 5.45 that Ofcom considers it timely to conduct a full review of the PASS scheme and as part of this, Ofcom would undertake further research into consumers' usage and knowledge of price comparison services. We envisage that data from this review, particularly data on consumers' knowledge and use of accredited price comparison services would prove very useful in choosing which of the 4 options should be pursued.

In general terms, OFT agrees that the availability of price comparison data is important as a means to empower consumers and better enable them to make informed choices about what product or service best suits their individual needs. In relation to the statement in 'Option 4' that there may be some specific competition concerns arising from choosing to accredited only a single price comparison provider, OFT fully expects that Ofcom will continue to give consideration to all relevant competition legislation and public procurement best practice when making decisions such as these.

Proposed Approach Regarding Switching Processes (Q16)

We would like to draw to your attention an April 2003 report on Switching Costs written by NERA and jointly commissioned by OFT and DTI. The following link will take you to an electronic copy of this,

http://www.offt.gov.uk/NR/rdonlyres/CFD52220-7862-41A7-8F6F-53F3B4FE78FE/0/oft655.pdf?bcsi_scan_A2018E0826464712=0&bcsi_scan_filename=oft655.pdf

The OFT project manager for this work was Peter Lukacs. Peter would be happy to discuss any elements of the report with you.

Office of Fair Trading

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