

BIS | Department for Business
Innovation & Skills

CONSUMER LANDSCAPE REVIEW

Impact Assessment

JUNE 2011

Title: Consumer Landscape Review Lead department or agency: Department for Business, Innovation & Skills Other departments or agencies: Office of Fair Trading Citizens Advice Trading Standards Consumer Focus	Impact Assessment (IA)
	IA No: BIS0266
	Date: May 2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

As recently announced in the Public Bodies Bill, the Government's intention is to reduce the number of public bodies, with the aim of reinvigorating the public's trust in democracy and to ensure that the Government operates in a more efficient and business-like way. Evidence indicates that the UK's consumer protection regime in general compares well with other countries, but that there are some concerns about consistency of enforcement, and the public are confused about the array of advice, advocacy and enforcement bodies. This consultation considers proposals to rationalise the institutional framework for consumer protection in the following areas: consumer information, advice and education, OFT's consumer code approval scheme, consumer advocacy and enforcement of consumer protection legislation.

What are the policy objectives and the intended effects?

The objectives of Government policy in this area are to:

- Strengthen the front line of consumer empowerment and protection
- Reduce the complexity of the consumer landscape
- Deliver consumer services more cost-effectively and consistently

These policy reforms are designed to empower consumers to make wise decisions when purchasing goods and services. Empowerment is supported by good access to reliable information and advice, by advocacy on behalf of consumers' rights and concerns, and by effective enforcement of consumer legislation. Importantly, greater consumer empowerment should also support the government's growth agenda.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

This impact assessment comprises a package of measures across four policy areas: consumer information, advice and education; consumer code approval; consumer advocacy, and enforcement of consumer protection legislation. A number of potential solutions have been considered under each area, which are provided in the section's summary sheets.

At this stage, the Government's preferred options are: to streamline public funding by focusing current resources allocated to consumer information/advice/education on the Citizens Advice service; to cease funding of OFT's consumer code of approval scheme; to transfer most of the powers and functions of Consumer Focus to Citizens Advice, and to transfer most of OFT's current enforcement powers to Trading Standards.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 4/2018

What is the basis for this review? Duty to review. **If applicable, set sunset clause date:** N/A

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 08/06/2011

Summary: Analysis and Evidence

Preferred Policy Options

Description: Package of preferred options – i.e.; focus current resources allocated to consumer information, advice & education on Citizens Advice service; cease funding for OFT consumer code approval scheme; transfer advocacy functions of Consumer Focus to Citizens Advice and transfer most of OFT enforcement powers to Trading Standards

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 8.3	High: 21.8	Best Estimate: 15.4

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	23.0	0	22.7
High	26.6	0	26.2
Best Estimate	24.8	0	24.4

Description and scale of key monetised costs by 'main affected groups'

One-off redundancy costs to OFT associated with staff reductions across all relevant consumer policy areas (£5.5m-6.1m); one-off transition costs – e.g. redundancy, IT systems, accommodation – incurred by government associated with transfer of Consumer Focus functions and powers to Citizens Advice (£3.8m-6.8m) and transfer of Consumer Direct functions to Citizens Advice (£13.6m), comprising: recruitment and training costs (£1.0m), transition team (£2.3m), ICT integration (£5.3m), other transformation costs (£2.4m) and exit costs for existing contracts associated with the delivery of Consumer Direct services (£2.6m); one-off costs of expanding role of Trading Standards Policy Board, including training and recruitment costs (£0.1m) and ongoing costs of securing necessary external legal and/or economic expertise for enforcement cases (estimated at up to £2m per year, but met by the transfer of existing OFT funding to LATSS network).

Other key non-monetised costs by 'main affected groups'

Familiarisation costs for businesses and consumers in relation to new institutional landscape (expected to be negligible, but will be refined during consultation); potential costs associated with lack of consumer confidence, due to removal of consumer code approval scheme (expected to be negligible); loss of OFT expertise in large-scale national enforcement cases; loss of potential deterrence effect associated with OFT enforcement.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	5.2	34.5
High	0	6.7	44.5
Best Estimate	0	6.0	39.8

Description and scale of key monetised benefits by 'main affected groups'

Reduction in number of consumers experiencing detriment due to expanded contact centre provision under Citizens Advice delivery model (£2.5m per year); annual savings to taxpayers from ending the OFT Consumer Code Approval Scheme (£0.8m per year) and ongoing efficiency savings from elimination of overlap and duplication between Consumer Focus and Citizens Advice (£1.9m-3.4m per year).

Other key non-monetised benefits by 'main affected groups'

Increased clarity and certainty for consumers due to improved access to information and advice, leading to reduced consumer detriment; advocacy benefits from integration of intelligence, locally-gathered information on issues of concern to consumers and greater cross-sector synergies; improved leadership, co-ordination and consistency of enforcement by Trading Standards; more certainty for business and consumers about enforcement practice and institutional arrangements, which should offset the familiarisation costs above.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Estimates of redundancy costs subject to assumptions about length of service, salary and number of staff, which could lead to inaccurate cost estimates; risks that larger cross-boundary enforcement cases are not undertaken due to lack of co-ordination or risk appetite in Trading Standards (but likely to be minimised under proposals for new role of Trading Standards Policy Board set out in this option); Citizens Advice/CAS may not have sufficient expertise to take on relevant advocacy and information/advice/education responsibilities, but this risk is minimal given their experience in this area; in the absence of the OFT consumer code approval scheme, a risk that alternative schemes may not provide sufficient confidence over quality (minimised through government action to explore alternative national accreditation systems, such as Kitemark).

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	April 2013				
Which organisation(s) will enforce the policy?	Trading Standards, Citizens Advice service				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 0		Benefits: 0		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	81
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	82
Small firms Small Firms Impact Test guidance	No	82
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	82
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	82
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	82
Human rights Human Rights Impact Test guidance	No	82
Justice system Justice Impact Test guidance	No	82
Rural proofing Rural Proofing Impact Test guidance	No	82
Sustainable development Sustainable Development Impact Test guidance	No	82

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Public Bodies Bill announcement: http://services.parliament.uk/bills/2010-11/publicbodieshl.html
2	Hampton Review (2005): http://www.berr.gov.uk/files/file22988.pdf
3	
4	

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	14.15	10.65	-	-	-	-	-	-	-	-
Annual recurring cost	-	-	-	-	-	-	-	-	-	-
Total annual costs	14.15	10.65	-	-	-	-	-	-	-	-
Transition benefits	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	-	-	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Total annual benefits	-	-	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0

* For non-monetised benefits please see summary pages and main evidence base section

Strategic overview

1. The OFT and others have highlighted the important role empowered and informed consumers have in driving business compliance and increasing competition in markets.¹ Consumer empowerment is an important part of developing and sustaining competitive markets, and in reducing the detriment consumers suffer over problems with the purchase of goods and/or services.² It is also key to supporting the government's growth strategy.
2. There are a number of areas in which government can help to support and empower consumers, to help drive competition and send signals via the market mechanism to businesses that best serve their needs. Firstly, by raising compliance with consumer law through improved enforcement; secondly, through better integration of consumers' interests into the policy-making process, and finally by ensuring the consumers have the necessary information and confidence to exercise their rights.³
3. In October 2010, the Government announced plans to substantially reform a large number of public bodies (or quangos) across government – including consumer and competition bodies – through the Public Bodies Bill.⁴ These plans are in accordance with the Government's commitments to reduce the number of public bodies and aim to reinvigorate the public's trust in democracy and also ensure that the Government operates in a more efficient and business-like way. As the Bill is still subject to Parliamentary scrutiny, implementation of any proposals in this consultation is subject to the successful passage of the relevant parts of the Bill, or the availability of an alternative legislative vehicle.
4. In line with the aims set out above, the Government has three objectives in relation to intervention in the consumer protection landscape: to strengthen the front line of consumer empowerment and protection; to reduce the complexity of the consumer landscape and for consumer services to be delivered more cost-effectively.
5. This impact assessment focuses on potential reforms to four key elements of consumer policy: consumer advocacy; consumer information, advice and education, consumer code approvals and consumer enforcement. These reforms are designed to simplify the institutional landscape and focus resources on the front line where they can be used most effectively to help empower consumers, as well as maximising the cost-effectiveness of public expenditure in this area.
6. The Government has identified two groups to be at the centre of these reforms: Trading Standards and the Citizens Advice service, comprising Citizens Advice and Citizens Advice Scotland. The intention is that over time almost all relevant central government resources for advocacy, information and advice and enforcement will transfer to these two groups, which have high recognition and trust among the public.
7. The Government believes that the objectives for consumer policy set out above are, for the reasons discussed below, best met by the following options: to transfer the information, advice and education responsibilities of OFT and Consumer Focus to Citizens Advice; to cease funding for the OFT's consumer code approval scheme; to transfer the advocacy functions and powers of Consumer Focus to Citizens Advice, and to transfer the majority of OFT's current enforcement powers and functions to the Trading Standards network.

¹ See, for example, Consumer Law and Business Practice (OFT 1225): http://www.offt.gov.uk/shared_offt/reports/Evaluating-OFTs-work/OFT1225.pdf

² OFT found that around one-third of consumers reported at least one problem in the last 12 months with goods or services purchased, leading to a total value of consumer detriment of £6.6bn across the economy; 'Consumer Detriment', OFT (2008)

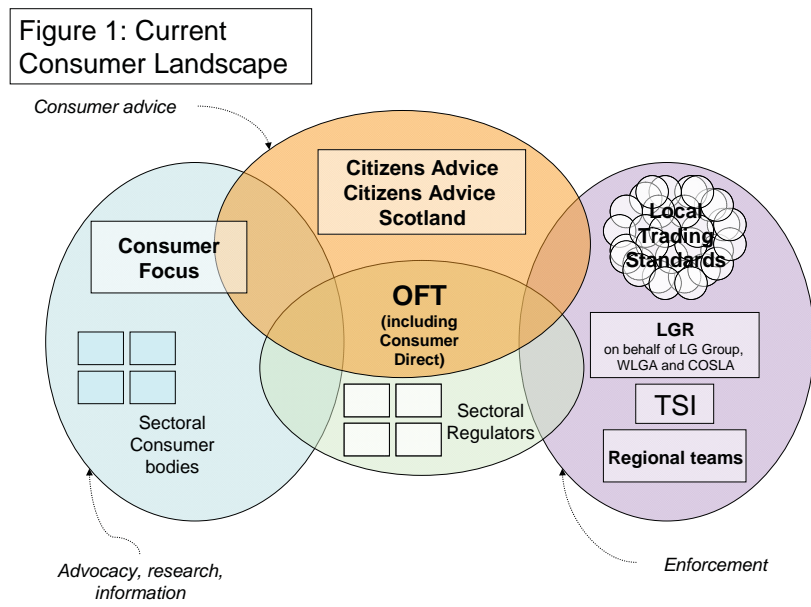
³ For example, OFT estimates that action on unfair trading practices by LATSS in 2007 led to consumer detriment savings of £228m per year, including £7m through disrupting the activities of rogue traders.(source:

http://www.offt.gov.uk/shared_offt/about_offt/offt1085.pdf)

⁴ <http://www.cabinetoffice.gov.uk/news/public-body-review-published>

Background

8. The Department of Business, Innovation and Skills (BIS) is responsible for consumer policy. It spends money, alongside others, on consumer information, advice and education; research into consumer issues and consumer advocacy, and to support the enforcement of consumer law. It is responsible for ‘horizontal’ and some sector-specific legislation to protect consumers’ economic interests and product safety, as well as overall policy responsibility for the enforcement of this legislation.
9. Recent research by the European Commission confirms that the UK’s consumer protection regime compares well with other countries in terms of the levels of protection currently enjoyed by consumers.⁵ However, comparative research of international consumer regimes also suggests that when compared to other countries there are two areas where the UK scores less well.⁶ One of those related to the complexity of UK consumer legislation – which BIS is planning to address in a ‘consumer rights bill’ in the future. The other weak area was the inconsistency of consumer law enforcement, which the changes proposed here are designed to at least partially address, by instilling greater leadership and co-ordination capacity into the Trading Standards network. There is also, undoubtedly, a complex landscape of legislation, policy, advice and enforcement bodies. The various organisations illustrated below all provide information for consumers including: consumer law and consumers’ rights when purchasing goods or services, specific rights when purchasing in particular sectors and information to consumers about “trusted traders”.



10. Further details on the consumer landscape, and the problems being addressed, are provided later in this assessment. A few general points to note about the institutional structure relating to the four areas we cover are, however, as follows:

Consumer information, advice and education

11. Public funds for consumer information and advice are currently spread across a range of services and organisations including: Consumer Direct, a national helpline operated by the Office of Fair Trading; the regulators and consumer bodies in particular sectors; local authorities through their

⁵ Consumer Markets Scoreboard, 5th Edition, European Commission (2011). http://ec.europa.eu/consumers/strategy/docs/5th_edition_scoreboard_en.pdf

⁶ ‘Benchmarking the performance of the UK framework supporting consumer empowerment through comparison against relevant international comparator countries’, University of East Anglia (2008)

websites and, for follow up advice, Local Authorities Trading Standards Services (LATSS); the Citizens Advice service nationally through their website and locally through the Citizens Advice Bureaux; and the General Consumer Council for Northern Ireland. Advice is provided either on the phone, by email or face-to-face and consists of “first tier” advice (which often points the way towards further information or answers practical and frequently-asked questions) and “second tier” detailed advice for individual consumers about their specific problems.

12. Educational activities include general awareness-raising about peoples’ rights when purchasing goods or services, which may be aimed at the general public or particular target groups, such as children or other vulnerable consumers. They also include awareness-raising (usually through the media) about specific scams or problems consumers may be having with companies operating in particular sectors – again aimed at general or specific audiences.

Consumer code approval scheme

13. The OFT is responsible for the Consumer Codes Approval Scheme (CCAS) which approves and promotes business-to-consumer codes of practice.⁷ To date, 10 codes of practice have been approved with a further 10 working towards approval. There are, however, also many other examples of successful approval schemes, such as Trustmark and local authority Buy with Confidence.

Consumer advocacy

14. Advocacy on behalf of consumers is provided by a number of organisations. A distinction is made in this IA between general advocacy, which applies to all consumer markets, and sectoral advocacy, which relates to individual regulated sectors and which has a specific role within the regulatory regimes for these sectors. For example, Consumer Focus carry out general advocacy work (in addition to sectoral advocacy work in the post and energy sectors), while Passenger Focus provides sectoral advocacy in the rail and bus industry.

Enforcement of consumer protection legislation

15. Responsibility for enforcing the bulk of consumer law in the UK is shared between the Office of Fair Trading (OFT) and LATSS. The OFT prioritises cases based on a number of factors including the impact on the economy but will generally take on large or complex cases with a strong national dimension. This does not always work well – for example, the NAO found that the OFT has only chosen to take on 2 of the 15 enforcement cases referred by LATSS over the last two years and 41% of respondents to an NAO survey of LATSS felt that the referral system between LATSS and the OFT was not effective.⁸ Individual LATSS handle cases involving threats to fair trading at a local level and collaborate to address threats which go beyond local boundaries, though the financial risks associated with taking on such cases are considerable – for example, a judgement in a recent case resulted in an individual Trading Standards Service being ordered to pay £4m in legal costs. They may also bring any national cases which OFT choose not to prioritise. The level of resource required to investigate and prosecute cases involving cross-boundary or national issues varies widely – the NAO found that costs could vary from £30,000 (for a more straightforward cross-boundary case) to over £200,000 (involving itinerant traders and recurring instances of doorstep crime). Under current funding arrangements, this means that around half of LATSS would need to commit over 40% of their annual staff budget to resourcing such a case.⁹ BIS funding is targeted at assisting and encouraging LATSS to collaborate to address the rogue traders operating beyond the local level.

⁷ <http://www.offt.gov.uk/OFTwork/ccas/>

⁸ ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office (forthcoming)

⁹ ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office (forthcoming)

Future of the OFT

16. The OFT has powers and functions across a number of areas of consumer policy, particularly in three of the four areas considered here (information, advice and education; consumer code approval and enforcement). As this consultation considers the possibility of moving these powers and functions to alternate bodies, this will impact on the future of the OFT. However, the future of the OFT is also affected by a separate consultation on potential reforms to the competition regime, which includes proposals to merge the competition functions of the OFT and the Competition Commission.
17. The Government's preferred option is to create a new single Competition and Markets Authority which focuses exclusively on competition in markets. Given the links and overlaps between competition and consumer problems in markets, however, this does not exclude a role for the new Authority in analysing markets without prejudice to whether any market failures may be on the supply or the demand side and hence whether the appropriate remedies for any weakness of competition in markets lie in consumer or competition law.
18. Therefore, there is a degree of uncertainty about the 'do nothing' option under three of the four areas considered here (information, advice and education; consumer code approval and enforcement). In each case, although a hypothetical 'do nothing' would entail such powers and functions remaining with the OFT, in reality this would probably, but not necessarily, mean a successor body to the OFT (such as a merged single Competition and Markets Authority) taking on these powers and functions. This is explored in more detail under the relevant sections.

Devolution

19. Consumer policy is not devolved to Scotland and Wales but it is devolved to Northern Ireland, hence most of the proposals in this consultation do not apply to Northern Ireland. For Scotland and Wales, the Government's aim is to ensure consistency and effectiveness of consumer and national enforcement services across the UK whilst recognising the local differences which may exist and respecting the devolution settlements in each case.
20. In Scotland, local authority performance is managed according to concordats with the Scottish Executive.¹⁰ The relevant representative body for Local Councils in Scotland is the Convention for Scottish Local Authorities (COSLA), with Trading Standards officers represented by the Society of Chief Officers of Trading Standards in Scotland (SCOTSS). In Northern Ireland, consumer policy is devolved and enforcement work is performed by the Department of Enterprise, Trade and Investment, part of the Northern Ireland Executive, rather than by local authorities. However, in the past they have worked very closely with the OFT on large cases and with LATSS in Great Britain and this close co-operation needs to be maintained.
21. Other consumer bodies have different arrangements across the UK. For example, the Citizens Advice service – comprising Citizens Advice (CitA) and Citizens Advice Scotland (CAS) – has significant national policy and support functions in Edinburgh (for Citizens Advice Scotland) and London and Cardiff (for Citizens Advice), alongside online and telephone advice services. In Northern Ireland, the Northern Ireland Association of Citizens Advice Bureaux has a head office in Belfast. In Wales, Citizens Advice Cymru (part of Citizens Advice) has a small research and policy team supporting the Welsh bureaux.¹¹
22. In addition, Consumer Focus has 185 staff with offices in London, Glasgow and Cardiff and has "territorial committees" in Scotland and Wales, as well as one in Northern Ireland which deals with postal services alone.

¹⁰ However, the Scottish Executive has no remit to develop or enforce consumer policy, because this is a reserved policy area, although BIS has been working closely with them

¹¹ There is also a sub-committee of the main Citizens Advice board that considers Wales-specific advice and advocacy issues

Issue

23. Evidence indicates that the UK consumer empowerment regime compares well with other countries, and recent surveys by the European Commission indicate that UK is ranked amongst the highest for consumer protection across Europe.¹² Nevertheless, consumers suffer significant detriment in a range of markets with the goods and services they purchase – a recent report by the OFT concluded that the detriment amounted to a total of £6.6 billion per annum across the economy.¹³ Survey evidence also indicates low awareness of rights among certain types of consumers (e.g. low-income groups) and difficulties in accessing information or advice about their rights.¹⁴
24. Recent research by the University of East Anglia (2008) confirmed the UK consumer regime's strong international ranking, but pointed to the complexity of the landscape and inconsistency in consumer enforcement, as areas which could be improved. As shown above, there are a variety of bodies active in consumer policy, which could contribute towards the problems identified above, such as difficulties in accessing further information or advice. There would seem to be scope for simplification and streamlining of current arrangements to make it clearer to Citizens where they should go for help. We have also identified instances where we can promote synergies between institutions – such as in data and infrastructure - which can expand the reach and efficiency of parts of the consumer service (discussed later, for example, under the consumer information proposals).

Rationale

25. The operation of the consumer regime – provision of information and advice, advocacy and enforcement of consumer law – is key to both the protection of consumers and to the government's policy of promoting economic growth. It is therefore important that the consumer regime is as effective as possible; moreover, the current budgetary environment means that any public expenditure must be used in the most cost-effective manner. The proposals set out in this impact assessment seek to achieve these objectives in the following way: by changing the institutional structure in relation to consumer advocacy and consumer information/advice/education; in relation to enforcement, by transferring some resources to LATSS currently allocated to the OFT; and by ceasing to fund the current Consumer Code Approval Scheme operated by the OFT.

Objectives

26. In addition to maximising the cost-effectiveness of current public funding, the Government wants a model that strengthens the front line for consumer empowerment and protection while cutting down the complexity, confusion and duplication that accompanies the proliferation of bodies. In assessing the potential for reform, the Government will be guided by the following three objectives, which are common across all four policy areas considered in this impact assessment:
 - Strengthen the front line of consumer empowerment and protection;
 - Reduce the complexity of consumer landscape, and
 - Consumer services to be delivered more cost-effectively.

¹² Consumer Markets Scoreboard (European Commission): http://ec.europa.eu/consumers/strategy/facts_en.htm

¹³ 'Consumer detriment', OFT (2008)

¹⁴ <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/consumer4.pdf> (2001); <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/know2002.pdf> (2002); <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/survey03.pdf> (2003); 'Consumer Rights Omnibus Survey' (2008)

Strengthen the front line of consumer empowerment and protection

27. Consumer policy is of vital importance for citizens, business and economic growth. Empowered consumers help drive competitive markets, promote efficiency and encourage innovation and business. The new consumer landscape should ensure that consumers are empowered and protected from illegal or harmful business practice but it should not stifle or hinder honest businesses.

Reduce the complexity of consumer landscape

28. The Government wants to reform and improve the way Government-funded institutions work, not least in the delivery of public services. The Government wants to empower local people, involve charities and other third-sector bodies and over time provide a single place, with multiple means of access, for people to go for information and advice. Simplification of the structures for enforcing consumer law will enable more consistent application of the law and a more streamlined approach to tackling threats at local, regional and national levels.

Consumer services to be delivered more cost-effectively

29. The Government's priorities are to reduce the deficit and restore economic growth. Any changes to the consumer landscape will need to ensure maximum value for money in the delivery of consumer services.

One-In, One-Out

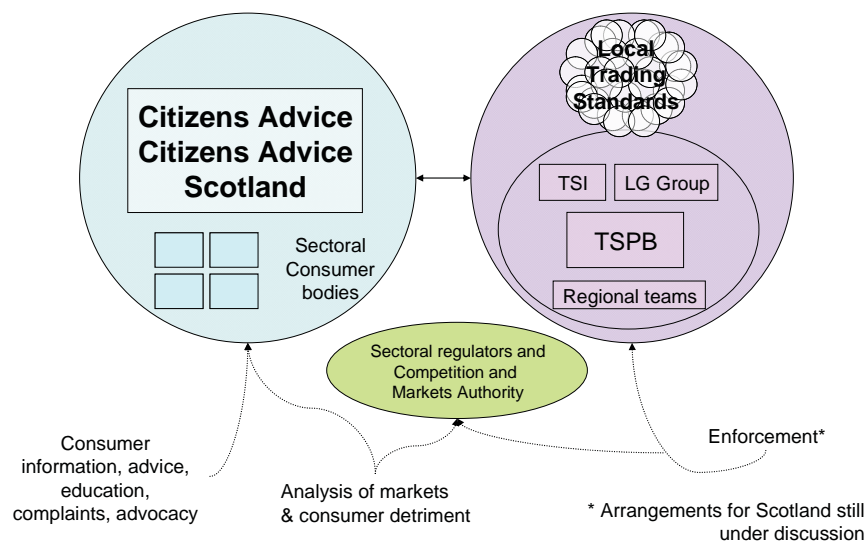
30. The only potential source of costs imposed on business by these proposals relate to familiarisation costs associated with changes to the institutional landscape. However, given the current overlap in responsibilities across institutions in most areas (e.g. LATSS already perform the majority of enforcement related to consumer law; Citizens Advice already undertake a significant amount of work on consumer advocacy, as well as information, advice and education), it is highly unlikely that any businesses are not already aware of those institutions, to whom functions and funding are being transferred as a result of these changes. It is therefore expected that such familiarisation costs would be negligible and hence at this stage, no corresponding 'out' has been identified.
31. Nevertheless, we will undertake further work during the consultation – including eliciting the views of those businesses affected – to improve estimates in this regard, so that we will be able to state with more certainty the magnitude of such familiarisation costs.

Summary

32. The remainder of the document comprises four impact assessments, covering each of the four policy areas being considered:
- Consumer information, advice and education;
 - Consumer code approval scheme;
 - Consumer advocacy, and
 - Enforcement of consumer protection legislation.

33. In each of these areas, potential options for intervention are considered and preferred options indicated. A section at the end of each impact assessment summarises the analysis and justification for the preferred policy choice.
34. The Government's intention in the area of consumer policy – reflected in the preferred options under each of the four sections – is to focus resources on two main bodies: Trading Standards¹⁵ and the Citizens Advice service.¹⁶ The intention is that over time, almost all relevant central government funding for information, advice, advocacy and enforcement will transfer to these two groups, which evidence suggests have high recognition and trust among the public.
35. The Government's vision for the future is one where the Citizens Advice service provides, through their central resources and their bureau network, a seamless information and advice service to consumers, first online, second by telephone, and for those who need it, face-to-face. Consumers will know where to go for information and advice and be able to access it easily according to their need. From this activity, intelligence on the concerns and experiences of consumers on the frontline will be garnered and assembled into a huge and valuable data set. The Citizens Advice service will combine this with high-level market, economic and behavioural analysis across sectors and insight from sectoral experts to undertake powerful advocacy on consumers' behalf.
36. Citizens Advice will provide advice to the Trading Standards Policy Board on where consumers are suffering from sharp practice. This will be combined with regional and local intelligence from LATSS from the enforcement front line and insights from the new single Competition and Markets Authority. Perspectives from business groups could be accessed through the Local Better Regulation Office's Business Reference Panel to avoid creation of additional structures. Using all this, enforcement priorities will be determined for regional and specialist national enforcement teams and budgets allocated for cross-boundary enforcement effort. Enforcements efforts around the country will be more consistent and better co-ordinated.
37. In terms of the overall effect on the institutional landscape for consumer policy, the diagram below shows the new structure:

Figure 2: Proposed Future Consumer Landscape



38. Across the four areas analysed, this will involve:

¹⁵ Comprising Local Authority Trading Standards services (LATSS), the Trading Standards Institute (TSI), the Association of Chief Trading Standards Officers (ACTSO), the BIS-funded regional and national specialist teams to support LATSS and the support infrastructure offered by the Local Government Group.

¹⁶ Comprising Citizens Advice (CitA) in England & Wales, and Citizens Advice Scotland (CAS)

- Channelling government funding for consumer information, advice and education to Citizens Advice/CAS and Trading Standards;
 - Ceasing funding for OFT's Consumer Code Approval Scheme;
 - Transferring most of Consumer Focus' current advocacy powers and functions to Citizens Advice/CAS, and
 - Transferring most of OFT's current enforcement powers and functions to LATSS.
39. The total costs to business from the proposed reforms should be negligible. More consistent enforcement from a single, better co-ordinated organisation should reduce business regulatory compliance costs. Switching consumer enforcement resources from OFT to Trading Standards might affect the balance of cases brought, with consequent economic effects.¹⁷ More coherent and evidence-based consumer advocacy should result from marrying the top-down research capacity of Consumer Focus with the bottom-up evidence base of consumer concerns that Citizens Advice will be able to mine. This should result in improved consumer outcomes and better-functioning, more competitive markets.
40. In the case of consumer code approvals, there may be detriment to businesses who currently volunteer to sign up to the approved schemes, because it is likely that the benefit of participating is at least equal to the costs incurred through complying with the scheme, otherwise they would not volunteer. The Government has, however, identified alternative options which should deliver similar outcomes at no cost to the private purse, but which will also be voluntary.
41. Reform should help to deliver greater certainty for both businesses and consumers through a rationalised landscape for consumer enforcement and clearer messages about where to go for information, advice and advocacy (CitA) as a result of simpler institutional arrangements. This should lead to lower levels of consumer detriment through greater awareness of rights among consumers and confidence in exercising them. Government spending in this area will also be reduced. By incentivising businesses to better serve their needs, consumers should help to drive productivity and support growth across the wider economy.
42. Quantifying the costs and benefits associated with the proposals in each of the four policy areas remains difficult. Every attempt has been made to do so, but respondents' views on the evidence presented, as well as potential alternative sources of evidence or approaches, would be welcomed. Specific areas are identified in the document where further evidence would be useful and Annex 3 contains a full list of the questions.

¹⁷ For example, we may expect more emphasis on challenging rogue traders, which may improve consumer confidence, but perhaps less attention to more contentious practices by mainstream big businesses which would also have economic impacts

Title: Consumer Landscape Review: Transfer of consumer information, advice and education functions Lead department or agency: Department for Business, Innovation & Skills Other departments or agencies: Office of Fair Trading Citizens Advice Consumer Focus	Impact Assessment (IA)
	IA No: BIS0269
	Date: May 2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
Contact for enquiries: Philip O'Donnell (0207 215 6764) Anthony Morris (0207 215 5670)	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The current institutional landscape for education and provision of information to consumers is crowded, with many separate active bodies. This creates the potential for duplication of activities and has resulted in low awareness of available services in some cases. Unilateral action by individual bodies has already resulted in substantial efficiency savings in some areas, but there is scope for further significant efficiencies to be realised by taking a broader approach to the provision of consumer education/information services.

What are the policy objectives and the intended effects?

The objectives of Government policy are as follows: strengthen the front line of consumer empowerment and protection; reduce the complexity of the consumer landscape; and deliver consumer services more cost-effectively and consistently. This particular reform should support each of the above objectives. As a result, consumers should have improved access to the necessary information and advice they need to exercise their rights effectively, delivered by organisations with a strong front-line presence. This should help to reward fair-dealing businesses and support economic growth.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Two substantive options have been considered, relative to the 'do nothing' option:

- Option 1: Streamline public funding and focus resources on the Citizens Advice service
- Option 2: Streamline public funding and focus resources on Consumer Focus

A further option was considered – to cease government funding for information, advice and education – but the proposal does not achieve the objective of strengthening consumer empowerment and protection.

Option 2 does not enable us to take advantage of synergies, such as the similarities between data collected by Consumer Direct and the Citizens Advice case management system. It does not therefore provide anything like the same potential as option 1 for expansion in reach of consumer information and advice or gains in efficiency.

Option 1 was therefore preferred as it will reduce the complexity of the consumer landscape and also strengthen the front line of consumer empowerment and protection to greatest effect.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 4/2018

What is the basis for this review? Duty to review. **If applicable, set sunset clause date:** N/A

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....  Date: 08/06/2011

Summary: Analysis and Evidence

Policy Option 1

Description: Streamline public funding and focus resources on the Citizens Advice Service

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 2.5	High: 2.5	Best Estimate: 2.5

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	14.3	2	0	14.1
High	14.3		0	14.1
Best Estimate	14.3		0	14.1

Description and scale of key monetised costs by 'main affected groups'

Citizens Advice estimate that one-off transition costs would be **£13.6m**, comprising: recruitment and training costs (£1.0m), transition team (£2.3m), ICT integration (£5.3m), other transformation costs (£2.4m) and exit costs for existing contracts associated with the delivery of Consumer Direct services (£2.6m); one-off redundancy costs for OFT resulting from moving consumer education resources to the Citizens Advice Service (**£0.7m**).

Other key non-monetised costs by 'main affected groups'

The fact that the phone number of Consumer Focus would be ported to Citizens Advice, and the very high recognition of the latter, means that any familiarisation costs for businesses and consumers in relation to where to go for help in the new institutional landscape will be negligible.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	N/A	2.5	16.6
High	0		2.5	16.6
Best Estimate	0		2.5	16.6

Description and scale of key monetised benefits by 'main affected groups'

Citizens Advice forecasts that they will be able to help an additional 1.06 million consumers, which should lead to around 276,000 additional consumer issues being fully resolved per annum. We have conservatively applied European Commission data on the median financial loss (£9) associated with consumer problems, which yields a total benefit of **£2.5m per year**. We have been deliberately cautious in our estimate and cite a series of studies which indicate that the benefits could be in excess of £50m per annum. We will work with Citizens Advice to refine our estimates during the consultation.

Other key non-monetised benefits by 'main affected groups'

Easier and quicker access to information and advice for consumers which should enable them to be more confident in their rights, to take better decisions and act more quickly, which should all lead to reduced detriment. More efficient resource allocation by focusing resources on the Citizens Advice service (e.g. combining and strengthening the link between first-tier complaints and other feedback from consumers and advocacy on their behalf). Also combining consumer issues with a wide range of other topics is likely to deliver synergies in terms of effective advice for the consumer who may have multiple issues to be resolved and efficiencies in terms of reducing the need for referrals to other advice providers. The enhanced contact centre capabilities are estimated to offer Citizens Advice scope for additional contacts with Citizens Advice on other issues.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

According to current estimates, 26% of contacts have their issue fully resolved as a result of contacting Consumer Direct. It has been assumed that the same proportion of issues will be resolved by the Citizens Advice Service and that the value of the issue resolved will, following current evidence set out below, be at least £9. The key risk in transferring additional responsibilities to the Citizens Advice Service is that insufficient knowledge and expertise is built up to effectively provide advice, information and education to consumers. However, Citizens Advice already exercise a significant role in the consumer landscape in providing information and advice to consumers, an activity that is one of their core functions and at which they are particularly proficient. Having discussed the capabilities needed with Citizens Advice, we are confident that the necessary resources are in place, with sufficient expertise to manage the transition (e.g. expertise in IT contracts and procuring of call centre services), which will help to mitigate this risk further. The risks in relation to the availability of sufficient expertise at Citizens Advice therefore appear low.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Summary: Analysis and Evidence

Policy Option 2

Description: Streamline public funding and focus resources on Consumer Focus.

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -8.5	High: -8.5	Best Estimate: -8.5
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low	8.6	2	0	8.5	
High	8.6		0	8.5	
Best Estimate	8.6		0	8.5	
Description and scale of key monetised costs by 'main affected groups'					
One-off transition costs (£7.9m) – recruitment and training costs (£1.0m), transition team (£2.3m), ICT integration (£2.0m) and exit costs for existing contracts associated with the delivery of Consumer Direct services (£2.6m); one-off redundancy costs for OFT resulting from moving consumer education resources to Citizens Advice (£0.7m).					
Other key non-monetised costs by 'main affected groups'					
Familiarisation costs for businesses and consumers in relation to new institutional landscape would be expected to be negligible, although this will be refined during the consultation.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low	0	N/A	0	0	
High	0		0	0	
Best Estimate	0		0	0	
Description and scale of key monetised benefits by 'main affected groups'					
None.					
Other key non-monetised benefits by 'main affected groups'					
These changes should lead to a somewhat more efficient use of limited resources, resulting in reduced costs to Government. Modest synergies from having CF staff having access to the Consumer Direct database in relation to the energy and postal sectors. Improved clarity and certainty for consumers, resulting in easier and quicker access to information and advice, which should enable them to act more quickly and lead to reduced detriment; minor increase in efficiency of resource allocation from focusing resources on Consumer Focus (e.g. combining first-tier complaints and advocacy). Further work will be undertaken with Consumer Focus during the consultation to help provide quantification of these benefits.					
Key assumptions/sensitivities/risks				Discount rate (%)	3.5
It has been assumed that the transition costs for this option would be lower than in Option 1 (i.e. transferring the same resources and responsibilities to Citizens Advice) because part of the costs for Citizens Advice arises out of upgrading their network IT infrastructure. A key risk in transferring additional responsibilities to Consumer Focus would be that they currently have limited expertise in delivering advice, information and education to consumers other than 2 nd tier advice in the energy and postal sectors. Even with a transfer of funding and staff from Consumer Direct, this would be a significant hurdle to overcome.					
Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as	
Costs: 0	Benefits: 0	Net: 0	No	NA	

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	April 2013				
Which organisation(s) will enforce the policy?	Citizens Advice service, Trading Standards				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 0		Benefits: 0		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	81
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	82
Small firms Small Firms Impact Test guidance	No	82
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	82
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	82
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	82
Human rights Human Rights Impact Test guidance	No	82
Justice system Justice Impact Test guidance	No	82
Rural proofing Rural Proofing Impact Test guidance	No	82
Sustainable development Sustainable Development Impact Test guidance	No	82

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
5	Public Bodies Bill: http://services.parliament.uk/bills/2010-11/publicbodieshl.html
6	
7	
8	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	8.9	5.4	-	-	-	-	-	-	-	-
Annual recurring cost	-	-	-	-	-	-	-	-	-	-
Total annual costs	8.9	5.4	-	-	-	-	-	-	-	-
Transition benefits	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	-	-	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Total annual benefits	-	-	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Introduction

43. This impact assessment considers proposed changes in relation to the provision of information, advice and education to consumers. The Government's preferred option is to focus resources currently allocated to information, advice and education on Citizens Advice services, i.e. Option 1. Efficiencies within the current institutional framework have been mostly secured. Channelling resources to Citizens Advice should help to strengthen the frontline of consumer protection and enforcement, while reducing the complexity of the consumer landscape. It also creates capacity to expand advice to citizens on a range of other issues through the same on-line and call centre infrastructure, an opportunity which is not available under the option of a transfer to Consumer Focus.

Background

44. For consumers to be empowered it is essential that they have information about their rights and are able to understand how to use this to prevent or sort out problems in buying goods and services. This can be achieved in three ways: providing information for people who are aware of the risks and the rewards of exercising choice and capable of choosing effectively and asserting consumer rights if pointed to the right material; advice for people who need help in interpreting or applying information, and education for people who may not be aware of the risks in relevant markets or the importance of exercising choice carefully or that they have particular rights as consumers.

Information and advice

45. Information and advice for consumers is usually provided by traders in the first instance. Many businesses have developed systems to ensure that their staff give accurate advice to consumers in order to inspire trust. Other businesses and third sector bodies have sprung up with a specialisation of comparing the offers of a range of suppliers. The exponential growth in e-commerce in recent years has spawned a host of business-driven models for analysing and comparing prices and other terms of supply, as well as assembling consumer feedback and reviews. Consumers can shortcut traditional accreditation schemes and instead get access to the opinions and experiences of users.
46. However, there are also sources of free or cheap advice from the public and charitable sectors. In Great Britain, publicly-funded information and advice is provided by a range of consumer bodies:
- Information about general consumer rights and advice about making wise decisions in purchasing goods and services, as well as what to do when things go wrong, is provided by **Consumer Direct** through its contact centre and website.¹ This is currently managed by the OFT and is delivered by a number of providers around the country;
 - **Local Authority Trading Standards Service (LATSS)** offices publish information for consumers about local issues and campaigns, usually online, together with material from Consumer Direct. Almost all calls to LATSS for information and advice are handled by Consumer Direct in the first instance; for cases where follow-up is needed, Consumer Direct will make a referral back to the relevant LATSS;
 - **Citizens Advice (CitA)** and **Citizens Advice Scotland (CAS)** provide information online² about consumer issues and consumer information is produced in-house from primary sources. The Citizens Advice Bureaux network provides advice to their clients through a variety of mechanisms including telephone³ and face-to-face advice on a wide range of topics, including consumer

¹ www.consumerdirect.gov.uk; in 2009-10, Consumer Direct advisors answered over 1.7 million calls and emails, including 857,000 complaint cases and 190,000 calls and emails regarding energy and post during the year, which was the first full year that the OFT collected this information

² Via a UK-wide, public-facing website (www.adviceguide.org.uk), which received 12 million hits in 2010

³ In Scotland, Citizens Advice Scotland has established a telephone advice line, Citizens Advice Direct, which is funded by the Scottish Government and will be expanded to cover the whole of Scotland in 2011.

issues.⁴ The consumer body **Which?** provides information and advice through its website⁵ and magazine as well as paid-for legal advice;

- In the regulated sectors (e.g. post, communication, energy), the **independent regulators** provide information about their sectors and some provide advice to consumers on topical issues.
47. Consumer policy is devolved in Northern Ireland and public funding for consumer information and advice is the responsibility of the Northern Ireland Assembly Government. The **Consumer Council for Northern Ireland** provides general and regulated sector-specific information and advice to consumers in the province.⁶ **Citizens Advice Northern Ireland** and the bureaux provide a similar service to that in Great Britain.

Education

48. Education about consumer issues is for people who may not realise that they have a problem or that they have particular rights as consumers. Education activities fall into three categories:
- awareness-raising among the public at national and local levels about consumer rights, scams and rogue traders (OFT and Trading Standards);
 - direct education of the public and provision of materials to teachers (Trading Standards, supported by OFT); and
 - educating businesses about their responsibilities to treat consumers fairly (Trading Standards, supported by OFT).
49. Much of the national publicly-funded awareness-raising activity aimed at the public has been led by the OFT, whose campaigns have included 'Know Your Rights', conducted through the media and reinforced by promotional material distributed to LATSS and through Citizens Advice. In addition, Consumer Focus, Which?, Citizens Advice and Citizens Advice Scotland (as well as the Scambuster and Illegal Money Lending teams) also carry out public information campaigns.
50. Education activities for the public at a local level are usually carried out by Trading Standards offices and their colleagues in local government, sometimes in collaboration with the OFT. An example is 'Skilled to Go', where the OFT has produced materials for teachers to help empower students in adult and secondary education, particularly in the context of literacy and numeracy education, about buying goods and services and use practical examples like buying a mobile telephone.⁷ LATSS offer extra support to teachers and make visits to schools and colleges to reinforce the messages in the OFT material. Many LATSS work closely with other local authority departments responsible for education, public information and protection of vulnerable people.

Issue

Low awareness of consumer rights & access to information

51. Research by BIS has found that a substantial minority of consumers are either not well informed about their rights (with around one-third describing themselves as 'not at all informed' or 'not very well informed') or find accessing information or advice about their rights difficult (around one-quarter of respondents)⁸. Those types of consumers who find it particularly difficult tend to be older, in a lower socio-economic category and with lower income. In a recent survey, 60% of consumers said that they would find it helpful to have more information about their rights as a consumer.⁹
52. Awareness of consumer rights has also been affected by the increased use of distance purchasing and the internet. For example, evidence from a telephone survey by OFT in 2009 found that the

⁴ Approximately 6% of the face-to-face (2nd tier advice) cases handled by Citizens Advice bureaux advisers concern consumer issues; the large majority of bureaux cases are currently concerned with access to benefits or debt.

⁵ www.which.co.uk

⁶ www.consumercouncil.org.uk

⁷ For more information, see http://www.offt.gov.uk/shared_offt/consumer_education_old/oft1040.pdf

⁸ <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/consumer4.pdf> (2001);

<http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/know2002.pdf> (2002);

<http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/survey03.pdf> (2003); 'Consumer Rights Omnibus Survey' (2008)

⁹ Consumer Rights Omnibus Survey' (2008)

proportion of consumers who said they were ‘very aware’ of their rights when shopping online has almost doubled since a similar survey was conducted in 2006 but still stands at around a quarter (26%).¹⁰ This lack of awareness can translate into confidence about exercising those rights – research by BIS in 2009 found that only 37% of consumers felt ‘very confident’ about getting a refund or replacement when returning faulty goods.¹¹

Complex institutional landscape for consumer advice & information

53. As set out earlier, the current landscape for delivering consumer information and advice is crowded and the profusion of potential consumer advice bodies can contribute to low levels of awareness, and effectiveness. For example, Citizens Advice (CitA) claims a public awareness rating of 95%¹², while unprompted awareness of Consumer Direct is only 1-2%¹³ (despite the fact that consumer satisfaction with services provided by Consumer Direct is similar to Citizens Advice at around 85%).¹⁴ Recent research by Consumer Focus found that one-third of consumers who had experienced unfair commercial practices did not know where to go or who to complain to for help, and one-fifth were unsure of their rights.¹⁵ In addition, the OFT’s research found that the proportion of online shoppers who did not know where to go for advice on their rights had fallen, but still accounted for around 1 in 6 (16%).
54. Research for BIS found that almost 40% of consumers would go to Citizens Advice to check their consumer rights, with only 4% choosing Consumer Direct and 2% selecting ‘Which?’.¹⁶ Research by the OFT found that 22% of consumers would go to a Citizens Advice bureau for advice about their rights when shopping online, with 11% going to a consumer association/interest group and 2% to Consumer Direct.¹⁷

Rationale

55. Evidence presented above indicates that there is still a significant role for government in funding the provision of clear information and objective advice to consumers, which should help to drive competition and economic growth. It also suggests that there could be significant gains if we could reform the landscape to raise awareness of where advice is best available. However, similarly to the other areas considered, there is significant pressure on government funding, which emphasises the need to maximise the cost-effectiveness of any publicly-funded activity in this area.
56. Efforts have already been made to realise efficiencies where possible – for example, the OFT have already delivered substantial efficiency savings through its management of Consumer Direct, with running costs around 31% lower than in 2006, when the OFT took responsibility for the service.¹⁸
57. The scope for further efficiency savings through existing structures is minimal, and it appears that further savings, and significant increased benefits to the public, are only likely to be achieved through rationalisation of the institutional architecture, the case for which is supported by the evidence about low levels of consumer awareness for certain consumer advice bodies.

Options identification

58. In considering options for reform, three potential options were identified:
- Option 1: Streamline public funding and focus resources on Citizens Advice services;
 - Option 2: Streamline public funding and focus resources on Consumer Focus, or
 - Option 3: Cease public funding for information, advice and education

¹⁰ www.offt.gov.uk/shared_offt/reports/Evaluating-OFTs-work/oft1079.pdf

¹¹ www.berr.gov.uk/files/file52820.pdf

¹² Source: www.citizensadvice.org.uk

¹³ Source: OFT

¹⁴ www.consumerdirect.gov.uk/shared_cd/medialibrary/325786/Consumer_Direct_wave_10_FIN1.ppt

¹⁵ www.consumerfocus.org.uk/assets/1/files/2009/11/UCPDresearch.pdf

¹⁶ Consumer Rights Omnibus Survey’ (2008)

¹⁷ www.offt.gov.uk/shared_offt/reports/Evaluating-OFTs-work/oft1079.pdf

¹⁸ In addition, customer satisfaction levels have remained high at 83 per for the last three financial years

Q1: Do you think other options should have been considered in relation to this policy area?

Discarded options

Option 3: Cease funding for information, advice and education

59. Under this option, information and advice provided by Consumer Direct and OFT consumer education responsibilities (including their awareness activities) would be abolished, leaving the provision of these services to private and/or third sector organisations.
60. This option would entail the greatest level of savings to the taxpayer, equivalent to the overall spending on OFT consumer education and information activities and the cost of running Consumer Direct – estimated to be £10.8m per year.¹⁹
61. However, if Government funding were removed, consumers would lose a key source of impartial advice and information that currently helps a lot of consumers to solve existing problems or prevent getting into trouble. For example, the OFT have estimated that the consumer detriment saved as result of Consumer Direct work is around £129 million per year²⁰, equivalent to around 2% of overall consumer detriment. In the absence of Government funding, it would be very costly to build such a service from scratch, as Trading Standards do not have any first-tier advice services and depend entirely on that provided by Consumer Direct.
62. In addition, Trading Standards and other public sector organisations, including policy-making institutions such as BIS, would also lose access to an invaluable source of market intelligence data which currently helps to inform many of their activities. A lack of publicly-provided alternative information and/or advice services would also be likely to leave unmet consumer demand for advice and information, which the private/third sector could not fulfil (e.g. through consumer feedback loops or comparison websites). Certain groups of consumers are likely to remain unserved, such as the vulnerable (e.g. those without access to the internet or who are unable to take steps to pursue redress when they have suffered problems).
63. Furthermore, this option would be inconsistent with Government's objective of strengthening frontline consumer empowerment and protection, as set out in the consumer empowerment strategy published in April 2011.²¹ Crucially, it would also undermine the Government's Growth Strategy, in which consumer empowerment plays a key role.²² Abolishing funding for consumer information, advice and education is likely to reduce consumer confidence and fewer empowered consumers in the economy, resulting in lower economic activity. For example if consumers become risk-averse, there will be an impact on purchasing decisions and a move away from higher-value or innovative products. Additionally, if companies who deceive customers or deliver unsatisfactory goods and services are allowed to operate without challenge, honest businesses are undercut and do not obtain the revenue to invest in further innovation and better customer service. The process of innovation and investment by consumer-facing business in a competitive market is an important driver for the economy and if the correct incentives are missing then business cannot effectively deliver growth. Over time, international competitiveness will be affected and fair competition undermined.
64. Finally, no stakeholders – including both business and consumer groups – have suggested such an option would be desirable or should be considered. Therefore, this option has not been developed further.

Q2: Do you agree that this is not an appropriate or suitable option?

¹⁹ The cost of running Consumer Direct in 2011/12 is estimated to be £8.8m and the OFT funding on education and information activities is estimated to be around £2m

²⁰ This estimate does not include the benefits from dealing with complaints relating to energy and postal sectors.

²¹ http://www.offt.gov.uk/shared_offt/annual_report/2009/hc301-annual-report2009-10.pdf

²² <http://www.cabinetoffice.gov.uk/sites/default/files/resources/better-choices-better-deals.pdf>

²² http://cdn.hm-treasury.gov.uk/2011budget_growth.pdf

Options analysis

65. In considering options for reform, two substantive options were selected for analysis and were compared against the 'do nothing' option – that information and advice would continue to be provided by OFT through Consumer Direct and the OFT (or its proposed successor body) would retain its current responsibilities on consumer education and information.
66. Given the Government's desire to reduce the complexity of the consumer landscape and the inability of the Government to stipulate the specific activities of Citizens Advice in this area, Option 2 (streamlining public funding and focusing resources on Consumer Focus) would not achieve the objectives for intervention in this area. It would not enable benefits in the synergies of data sets and IT infrastructure which location in Citizens Advice would secure. In addition, such an approach would be inconsistent with the Government's preferred option in relation to advocacy (transferring Consumer Focus functions to Citizens Advice), which would make Option 2 impractical.
67. Therefore, Option 1 is the clear preferred option as it will strengthen frontline consumer protection by forging a stronger link between the activities of Citizens Advice and provision of information, advice and education, along with reducing the complexity of the landscape. This option would also create opportunities for substantial synergies in data and IT infrastructure, and a very substantial expansion in reach to the consumer community, as detailed below.

Option 1: Streamline public funding and focus resources on the Citizens Advice service

68. In relation to consumer information and advice, this option entails the transfer of resources associated with providing a consumer contact service (currently fulfilled by OFT through Consumer Direct) to the Citizens Advice service (Citizens Advice and CAS). In relation to consumer education, this option entails transferring the responsibility and resources for awareness-raising activity from OFT to the Citizens Advice Service, along with OFT's role in education of consumers (including resources currently used by the OFT for providing educational materials to Trading Standards).
69. Citizens Advice plan to develop a simple and single point of contact for all consumers on information, advice and education from a highly-recognised and trusted provider. Citizens Advice plan to build on their existing infrastructures, which include web, phone and face-to-face services.

Online

70. The Citizens Advice service will build on its already highly-regarded public and adviser-focused websites, to develop a far more user-focused and single website replacement. This will have expanded and improved content and interactive online tools to help people identify the right information and actions to resolve their problems. The website will have both UK-wide information, as well as content specific to England, Wales and Scotland.

Telephone/Contact centres

71. In England and Wales, Citizens Advice will procure call centre capability, which will work alongside their virtual call centre. There will be a single telephone number covering England, Wales and Scotland. In addition to telephone services, the contact centres will also offer information and advice through email and live text chat.

Face-to-face

72. Citizens Advice will continue to offer services throughout England, Wales and Scotland from bureaux locations and a wide range of community outreach locations. Services will be offered as both drop-in sessions and pre-booked appointments, and they will develop the ability for customers to book appointments online or by phone. This should offer a consistent, high-quality core service with additional services relevant to local need and availability of resources.

Costs

Transition costs to Citizens Advice of providing a consumer contact service (such as Consumer Direct)

73. Through building on their existing infrastructure, Citizens Advice estimate that the total transition costs of providing a consumer contact service would be **£13.6m**. This cost would be spread between 2011/12 (£8.55m) and 2012/13 (£5.05m). These costs include recruitment and training costs

(£1.0m)²³, the transition team required (£2.3m), ICT integration (£5.3m), other transformation costs (£2.4m) and exit costs for existing employment contracts associated with the delivery of Consumer Direct services (£2.6m).

Transition costs of redundancy at OFT

74. Overall, it has been estimated that redundancy costs associated with losses of OFT staff across its current consumer policy functions would be up to £6.5m, which incorporates some elements of back-office and administrative resources.²⁴ There will be a proportion of the overall estimated OFT redundancy costs incurred under this policy function, but there are difficulties in apportioning these costs accurately across policy areas, it is estimated that the proportion incurred in relation to information, education and advice is likely to be around 10% of the total, i.e. **£0.7m**.

Familiarisation costs associated with new landscape for consumers and businesses

75. Consumers and businesses who are currently well-informed about the appropriate body to go to when they need information and advice will need to familiarise themselves with the new landscape, therefore imposing some cost on them. However, Citizens Advice is already by far the best-recognised source of information and advice in this area. With regards to online and telephone enquiries, consumers can simply be re-directed to the new site and the telephone number would remain the same. Due to the strong brand awareness of Citizens Advice already, consumers should quickly become accustomed to knowing where to go for information. Therefore, these costs should be negligible.

Q3: Do you have any evidence that could help to refine the cost estimates presented above?

Benefits

76. Streamlining information and advice into one body will provide clarity for consumers and promote a simple message that for all non-financial information and advice: go to Citizens Advice. As a result, consumers should be able to access the information and advice they require and realise the benefits of acting on this more quickly. This increase in consumer empowerment should help drive competition and therefore growth in the economy. Focusing resources on one body should promote efficient resource allocation, by preventing the duplication of information and one body having an holistic approach to information and advice provision.
77. Transferring Consumer Direct to Citizens Advice will bring together first-tier complaints and advocacy, which should result in significant benefits: consumer experiences and complaints data will be more readily accessible by the body responsible for consumer protection, aiding better prioritisation of issues and policy development. Similarly, transferring OFT's awareness-raising activities to Citizens Advice should benefit consumers by integrating these activities with information and advice provision across the Citizens Advice Bureaux network, which helps to achieve the first of the three objectives outlined earlier (i.e. strengthening the frontline of consumer empowerment and protection). Transferring OFT's support for LATSS education activities to Citizens Advice services and LATSS themselves, with governance arrangements involving Citizens Advice services and the Trading Standards Institute, should aid collaboration between these organisations.
78. These changes should lead to a more efficient use of limited resources, which should result in reduced costs to Government, in line with the third objective outlined earlier – i.e. delivering consumer services more cost-effectively.

Reduction in consumer detriment

79. Consumer Direct (CD) currently deals with 1.7 million contacts by phone, email and online chat services. Under its proposed model, Citizens Advice forecasts that they will be able to help an additional 1.06 million consumers (i.e. a total of 2.86 million consumers). It is reasonable to assume

²³ This estimate is based on 160 people working in the new contact centre.

²⁴ It has been estimated that approximately 175 people work on relevant consumer functions at OFT; under the Civil Service Compensation Scheme, employees are entitled to one month's pay per year of service. For the purposes of this calculation, it has been assumed that the average length of service is 9 years and average salary is £50,000 – i.e. $0.75 \times £50,000 \times 175 = £6.5m$

that the service provided by Citizens Advice is similar in effectiveness to Consumer Direct in solving problems (with 26% of all contacts resolved fully, which would have not have occurred without input from Consumer Direct)²⁵, which would result in an extra 276,000 consumer issues being fully resolved because of Citizens Advice²⁶ input compared to the baseline.

80. Given the variability in problems encountered by consumers, it is difficult to generalise about the level of individual detriment suffered in each case. The most recent study on consumer detriment, published by the European Commission²⁷, found that the overall (mean) average for UK consumers was €239 (£205²⁸) and the median was €11 (£9).²⁹ Given that the mean is likely to be skewed by a few very large outliers, we have used the median figure as a basis for estimating the saving associated with resolving issues for an additional 276,000 consumers; which would suggest annual savings of the order of **£2.5m per year**.
81. The (mean) average above is supported by estimates from other studies – for example, previous research by the OFT found an average (mean) value for detriment per problem suffered of around £250.³⁰ Another recent study by Consumer Focus in relation to problems suffered as a result of unfair commercial practices found that the average value of the problem was £175.³¹
82. If we were to use the evidence on the average values of detriment presented above - from the OFT, European Commission and Consumer Focus research of £250, £205 and £175 respectively - this would suggest an annual saving of around £50m per year or more. Although this estimates appears substantial, it is only equivalent to 1-2% of total UK consumer detriment suffered each year.³²
83. It is, however, likely that those who take action as a result of encountering problems with goods or services they have purchased are likely to have suffered a greater level of detriment – for example, a recent European Commission study found that almost one-third of consumers who had encountered problems but taken no further action felt that the ‘sums involved were too small’.³³ This is exemplified by recent work conducted by the OFT, which found that the median financial benefit from having a general consumer problem resolved by Consumer Direct was much higher than the figures presented above, at £584. As a result, OFT have estimated that the consumer detriment saved as result of CD intervention is around £129 million per year, which is equivalent to around 2% of total UK consumer detriment.³⁴
84. In addition, Citizens Advice estimate that the enhanced on-line and call centre infrastructure would enable it to also substantially enhance its wider advice services. Citizens Advice initially estimate that these greater efficiencies should enable it to handle several million more consumer enquires per year, covering areas such as debt advice, advice on benefits entitlements and social housing. We are in close contact with their appraisal and evaluation team and will work with them to refine the estimates as the policy develops.

Q4: Do you have any evidence that could help to refine the assessment of benefits associated with the above option?

²⁵ 51% of CD contacts are fully resolved; half of these could not have their issues resolved without CD input.

²⁶ Assuming Citizens Advice could fully resolve the same number of contacts as CD and the same proportion of contacts who could not have resolved their issue without CD input.

²⁷ Special Eurobarometer 342 (Consumer empowerment), European Commission (2011)

²⁸ Using average sterling-Euro exchange rate for 2010 (source: Bank of England, series code XUAAERS)

²⁹ More detailed data was available on the distribution of financial losses suffered as a result of problems encountered by UK consumers: 37% suffered no loss (€0); 14% suffered a loss of €1-20; 10% a loss of €21-50; 9% a loss of €51-100; 9% a loss of €101-200; 7% a loss of €201-500; 4% a loss of €501-1,000; 2% a loss of €1,001-2,500; 1% a loss of €2,501-5,000 and 1% greater than €5,000

³⁰ http://www.of.gov.uk/shared_of/reports/consumer_protection/of992.pdf. This also included information on distribution of financial loss associated with problems suffered by consumers: 55% of all consumer problems resulted in a financial detriment of £5 or less, with 28% reporting detriment between £5 and £100, 14% a detriment between £100 and £1,000 and 4% a detriment exceeding £1,000

³¹ ‘Waiting to be heard’, Consumer Focus (2010)

³² The OFT estimated total consumer detriment in the UK to be £6.6 billion per annum

³³ Flash Eurobarometer 299 (2011)

³⁴ This estimate does not include the benefits from dealing with complaints relating to energy and postal sectors.

http://www.of.gov.uk/shared_of/annual_report/2009/hc301-annual-report2009-10.pdf

Option 2: Streamline public funding and focus resources on Consumer Focus

85. An alternative would be to focus public funding and resources (including the provision of a consumer contact service, currently provided through Consumer Direct) on Consumer Focus. This option, viewed in isolation, would result in some modest simplification of the consumer landscape. However, there are options within this section which, when combined with options in other sections, could be more effective at achieving this objective – for example, if Option 1 within this section and Option 1 of the advocacy section (transfer some of Consumer Focus functions to Citizens Advice services) were chosen.
86. Transferring awareness-raising activities currently undertaken by the OFT to Consumer Focus should increase the brand awareness of Consumer Focus amongst consumers, which may help to strengthen the frontline of consumer empowerment and protection (the first of the three objectives outlined earlier). The benefits are, however, likely to be significantly lower than under Option 1, due to the relative strength of Citizens Advice brand awareness compared to Consumer Focus, and the fact that it does not enable synergies in IT infrastructure which facilitate the expansion in reach to the consumer community under Option 1. Finally, this option is incompatible with the preferred option in the advocacy section, which would result in Consumer Focus being abolished.

Costs

Transition costs to Consumer Focus of providing a consumer contact service

87. The transition costs of providing a consumer contact service through Consumer Focus are likely to be lower than those associated with Citizens Advice providing such a service. This is because this option does not offer the same synergies with general advice services associated with investment in IT infrastructure, which facilitates the expanded reach of the service under Option 1. For the purpose of this IA, the transition costs of this option are estimated to be **£7.9m**. This sum comprises £2.6m estimated exit costs for existing contracts associated with the delivery of Consumer Direct services, £1.0m recruitment and training costs, £2.3m for the transition team and £2.0m in up-front ICT integration costs. In the absence of better information, we have assumed that the value of certain components would be the same as under Option 1. However, we will work closely with Consumer Focus to refine this estimate during the consultation period.

Q5: Do you have any evidence that might help to estimate the costs of Consumer Focus providing a consumer contact service?

Transition costs of redundancy at OFT

88. Overall, it has been estimated that redundancy costs associated with losses of OFT staff across its current consumer policy functions would be £6.5m, which incorporates some elements of back-office and administrative resources.³⁵ There will be a proportion of the overall estimated OFT redundancy costs incurred under this policy function, but there are difficulties in apportioning these costs accurately across policy areas, it is estimated that the proportion incurred in relation to information, education and advice is likely to be around 10% of the total, i.e. **£0.7m**.

Familiarisation costs associated with new landscape for consumers and businesses

89. Consumers and businesses who are currently well-informed about the appropriate body to go to when they need information and advice will need to familiarise themselves with the new landscape, thereby incurring some cost. These costs are likely to be higher compared the equivalent costs in Option 1, as Citizens Advice is already the best-recognised source in this area, but would nevertheless be expected to remain small. We have not been able to establish what the current Consumer Direct budget is for marketing and advertising, which would be a useful basis for estimating the likely cost of marketing any new Consumer Focus service to consumers. However, further work will be undertaken to provide estimates of these costs during the consultation period.

³⁵ It has been estimated that approximately 175 people work on relevant consumer functions at OFT; under the Civil Service Compensation Scheme, employees are entitled to one month's pay per year of service. For the purposes of this calculation, it has been assumed that the average length of service is 9 years and average salary is £50,000 – i.e. $0.75 \times £50,000 \times 175 = £6.5m$

Benefits

90. These changes should lead to a somewhat more efficient use of limited resources, resulting in reduced costs to Government, in line with the third objective outlined earlier – i.e. delivering consumer services more cost-effectively. Consumer Focus currently provides direct help to consumers through its Extra Help Unit for energy and postal services. This is a contact centre operation of about 20 staff based in Glasgow and funded by a levy on the respective industries. Designated Consumer Focus staff have access to the Consumer Direct database and use it to inform advocacy work. Putting the service within the same organisation would therefore bring some modest synergies in relation to advocacy for the energy and postal sectors. Further work during the consultation will be undertaken in order to quantify this benefit.
91. The benefits would be significantly lower than in Option 1 because there would still be two sources of consumer advice – Citizens Advice and Consumer Focus rather than one. Integration of intelligence or consumer detriment in on-line and call centre advice capabilities would not extend to those requests coming in to Citizens Advice Bureaux, unless an efficient forwarding mechanism were also developed at further costs. Critically the investment in on-line and call centre advice capabilities would not be easily scalable to deliver major efficiencies gains in relation to other of advice to the citizen.

Risks

Option 1

92. A risk in transferring additional responsibilities to Citizens Advice is that sufficient knowledge and expertise is not built up in providing information, advice and education to consumers. However, Citizens Advice Bureaux already exercise a significant role in the consumer landscape in providing information and advice to consumers; indeed, this provision is one of their core functions, at which they are particularly proficient.
93. Moreover, in taking on further responsibilities on information and advice, Citizens Advice will have an additional IT contract to manage, and will also need to be proficient at procuring the call centre services for Consumer Direct. This risk is being mitigated by close working between Citizens Advice service and OFT to understand the requirements of the new service³⁶, detailed planning within the service on a GB-wide delivery models, advice from Trading Standards community and BIS as well as ICT expertise from their existing strategic IT provider. For these reasons, we consider the risks in relation to transferring responsibilities for consumer information, advice and education to Citizens Advice service to be low.

Option 2

94. Similarly to Option 1, under this option there would be a risk in transferring additional responsibilities to Consumer Focus that sufficient knowledge and expertise is not built up in providing information, advice and education to consumers. Although Consumer Focus already provide this in relation to energy and postal sectors, this risk would be higher compared to Option 1, due to the comparatively broader range of sectors that Citizens Advice currently cover, and the size of the organisation.

Q6: Do you agree with the risk analysis presented above?

Summary

95. As set out above, the Government's clear preferred option is to streamline public funding for information, advice and education by focusing resources on Citizens Advice. The Government's intention is that responsibility and resources for all such publicly-funded activity at the national level

should in future transfer to the Citizens Advice service.³⁷ The Government does not believe that the do nothing option (i.e. for current responsibilities in consumer information, advice and education, including Consumer Direct, to remain with the OFT or its successor body) is an appropriate choice, as this option would not help to achieve the objectives set out earlier.

96. Option 2 (streamlining public funding and focusing resources on Consumer Focus) would not achieve the objectives for intervention in this area with anything like the same degree of potential efficiency gain or expansion in reach and effectiveness. In addition, such an approach would be inconsistent with the Government's preferred option in relation to advocacy (transferring Consumer Focus functions to Citizens Advice), which would make Option 2 impractical.
97. Efficiencies within the current institutional framework have been maximised, while keeping resources with a centralised body does not help to strengthen the frontline of consumer protection and enforcement, nor help to reduce the complexity of the consumer landscape. Therefore, the Government's preferred course of action is Option 1.

³⁷ Except in the field of financial literacy, consumer finance and most public services, including health

Title: Consumer Landscape Review: Cessation of consumer code approval scheme Lead department or agency: Department for Business, Innovation & Skills Other departments or agencies: Office of Fair Trading	Impact Assessment (IA)
	IA No: BIS0270
	Date: May 2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
Contact for enquiries: Philip O'Donnell (0207 215 6764) Anthony Morris (0207 215 5670)	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary? The OFT has been operating the Consumer Code Approval Scheme (CCAS) – which aims to identify and promote self-regulatory business-to-consumer codes of practice – since 2001. However, the CCAS has proved long and relatively labour-intensive, with an average of up to 2 years from application to approval. The scheme has been criticised for being bureaucratic and inflexible and evidence of strong consumer recognition of – and trust in – the OFT approval logo is limited. In addition, in the context of the proposed creation of a Single Competition Authority and given the existence of alternative models of co-regulation the Government is minded to cease funding for the CCAS.	
What are the policy objectives and the intended effects? As for other areas, the objectives of intervention in this policy area are: Strengthen the front line of consumer empowerment and protection; reduce the complexity of the consumer landscape, and consumer services to be delivered more cost-effectively. The intention of reform in this policy area is to maximise efficiency in the use of public resources, which contributes to the achievement of the third objective above.	
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) Two options have been considered in detail, relative to a 'do nothing' option (i.e. funding for CCAS remains at its current level, with the OFT, or its proposed successor body the single CMA, carrying out approvals): <ul style="list-style-type: none"> Option 1: Cease funding for OFT's Consumer Code Approval Scheme (CCAS), and Option 2: Transfer responsibility (and associated funding) for statutory approval of consumer codes to an alternative body A further option was considered – creating a new public body to undertake statutory approval of consumer codes. However, this option is not consistent with the Government's desire to reduce the complexity of the consumer landscape and the number of public bodies, and it has not therefore been developed further. In view of the problems with the existing CCAS detailed above and the prospects of new validation schemes developing successfully, the Government considers there to be a robust case for ceasing funding of CCAS (Option 1, the preferred option). Option 2 (transferring the statutory powers on which CCAS is based to an alternative body) was also considered, but rejected because of the risk of duplication with existing schemes and ineffective use of public finances.	
Will the policy be reviewed? It will be reviewed. If applicable, set review date: 4/2018 What is the basis for this review? Duty to review. If applicable, set sunset clause date: N/A	
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:  Date: 08/06/2011

Summary: Analysis and Evidence

Policy Option 1

Description: Ceasing funding for OFT's Consumer Code Approval Scheme (CCAS)

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 5.1	High: 5.1	Best Estimate: 5.1

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.2	2	0	0.2
High	0.2		0	0.2
Best Estimate	0.2		0	0.2

Description and scale of key monetised costs by 'main affected groups'

One-off redundancy costs for OFT resulting from ending the Consumer Code Approval Scheme (£0.2m)

Other key non-monetised costs by 'main affected groups'

Potential costs associated with lack of consumer confidence in business codes of conduct, due to removal of consumer code approval scheme.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	N/A	0.8	5.3
High	0		0.8	5.3
Best Estimate	0		0.8	5.3

Description and scale of key monetised benefits by 'main affected groups'

Annual savings to Government associated with ending of OFT consumer code approval scheme (£0.8m per year).

Other key non-monetised benefits by 'main affected groups'

None

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

In the absence of CCAS, there are a series of potential risks (e.g. business may see less value and/or are unaware of alternative approval bodies, alternative bodies may give approval more readily than OFT, weakening consumer protection) which may mean that the full value of the CCAS would not be recreated by currently-available alternative schemes, such as those offered by the commercial or voluntary sectors, or by the local authority network. Government is therefore exploring alternative national accreditation systems which could be established to mitigate these risks – for example, the British Standards Institute may be able to transpose existing CCAS-approved codes into British standards and offer certification through its Kitemark scheme, 'primary authority' arrangements could be established between code sponsors, LBRO and LATSS.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Summary: Analysis and Evidence

Policy Option 2

Description: Transfer responsibility (and associated funding) for statutory approval of consumer codes of practice to an alternative body

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.7	High: -0.2	Best Estimate: -0.4

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.2	0	0.2
High	0.7	0	0.7
Best Estimate	0.5	0	0.4

Description and scale of key monetised costs by ‘main affected groups’

One-off redundancy costs for OFT resulting from ending the Consumer Code Approval Scheme (£0.2m); potential one-off costs of scaling up resources of alternative bodies to provide code approval and/or publicising alternative schemes (up to £0.5m).

Other key non-monetised costs by ‘main affected groups’

Potential costs associated with lack of consumer confidence in business codes of conduct, due to code approval being provided by bodies other than the OFT. However, such costs are likely to be minimised, as the legislative responsibilities currently bestowed on the OFT for providing the CCAS would be transferred to another body under this option.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

Description and scale of key monetised benefits by ‘main affected groups’

None

Other key non-monetised benefits by ‘main affected groups’

If statutory code approval by alternative bodies can be provided at a lower cost than the CCAS as currently offered by OFT – for example, if an alternative CCAS run by another body required fewer staff, or had a shorter application process and/or less onerous monitoring requirements for code sponsors – this would represent a saving compared to the current situation.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

In the absence of the OFT providing the CCAS, there is a risk that approval may be weakened by bodies without OFT’s brand recognition or that alternative bodies may give approval more readily than OFT, which may ultimately weaken consumer protection. However, this risk is likely to be minimised, as the legislative responsibilities currently bestowed on the OFT for providing the CCAS would be transferred to another body under this option.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	April 2013				
Which organisation(s) will enforce the policy?	Citizens Advice service, Trading Standards				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 0		Benefits: 0		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	81
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	82
Small firms Small Firms Impact Test guidance	No	82
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	82
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	82
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	82
Human rights Human Rights Impact Test guidance	No	82
Justice system Justice Impact Test guidance	No	82
Rural proofing Rural Proofing Impact Test guidance	No	82
Sustainable development Sustainable Development Impact Test guidance	No	82

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
9	Public Bodies Bill: http://services.parliament.uk/bills/2010-11/publicbodieshl.html
10	
11	
12	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0.1	0.1	-	-	-	-	-	-	-	-
Annual recurring cost	-	-	-	-	-	-	-	-	-	-
Total annual costs	0.1	0.1	-	-	-	-	-	-	-	-
Transition benefits	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	-	-	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Total annual benefits	-	-	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Introduction

98. This impact assessment considers proposed changes in relation to the OFT's Consumer Code Approval Scheme. The Government's preferred option is to cease funding for the scheme, this will help to support the achievement of the third objective outlined earlier, i.e. delivering consumer services more cost-effectively.

Background

99. The Government wholeheartedly supports self regulation and co-regulation as attractive ways of boosting consumer empowerment. Businesses voluntarily undertake self regulation and co-regulation to meet higher consumer welfare standards in order to boost consumer confidence and to gain a marketing advantage over less scrupulous rivals. In the case of co-regulation, Government in some way endorses the higher standard or certifies that the standard is being met. This can help to give a scheme credibility with consumers and thus increase its marketing value, whilst also encouraging businesses to aim for a higher standard in order to secure the Government's support.
100. Currently the OFT is responsible for the Consumer Codes Approval Scheme (CCAS), which aims to safeguard consumers' interests through the certification and promotion of self-regulatory business-to-consumer codes of practice. Under the Enterprise Act 2002, the OFT has statutory powers to approve and promote such codes of practice, in order to provide a signal to consumers of excellent service among those businesses. The criteria for approval include the provision of clear pre-contractual information and fair contracts, compliance and monitoring procedures, protection of prepayments and independent redress schemes.

Application procedure

101. The CCAS application process has two stages:
- Stage One – The code must meet the OFT's criteria and the sponsor's members must agree to abide by the code.
 - Stage Two – The code sponsor must provide evidence to the OFT, such as complaints data and independent customer surveys, to show the code is working well. When the OFT is content that a code is working satisfactorily, approval will be given, allowing member businesses to advertise that they abide by an OFT-approved code and use the 'OFT Approved Code' logo in their promotional materials.

Other approval schemes

102. In addition to the OFT approval scheme, there are many other examples of successful self-regulation and co-regulatory schemes:
- Government endorsement of Trustmark¹ – an accreditation scheme to give consumers the opportunity to identify tradespersons in the domestic building/home repair sector who agree to abide by minimum standards for trade competency and practice;
 - Local authority 'Buy with Confidence' scheme – established by a partnership of LATSS to help consumers avoid problems by providing a list of reputable local businesses in a wide range of different trades;
 - Gas Safe Register – the official gas registration body for the UK, who ensure that all 120,000 gas engineers on the register are gas safe and qualified to work with gas;
 - The Advertising Standards Authority (ASA) – the independent body responsible for resolving complaints about advertisements across all media and tackling non-compliance. Its Advertising

¹ www.trustmark.org.uk

Codes supplement legislation and fill gaps where the law does not reach; for instance, ensuring that advertisements are tasteful, decent and contain measures which display a social responsibility.

- The Bar Council, the Law Society, the General Medical Council – examples of arrangements for the self-regulation of professions which are largely industry-led but underpinned by a statutory regulator.

Previous evaluations of the CCAS

103. OFT has commissioned two independent evaluations of the CCAS, in 2006² and 2010³.

2006 study

104. At the time of the first study in 2006, the scheme was still in its infancy and it was not possible to draw firm conclusions about its impact on consumers. The research found that awareness of the CCAS among businesses who were members of a CCAS-approved scheme was substantial. Awareness among the wider business community was, however, significantly lower.
105. Among members of OFT-approved codes, customer service (e.g. complaint handling procedures, standard methods for providing clear pre-sale information to consumers) was more structured and well-developed. A number of code sponsors indicated that codes had been strengthened to achieve OFT approval and better performance (on informing consumers of their complaint procedures) was associated with membership of an OFT-approved code. However, the report cautioned that proving causality in this instance was too difficult, further complicated by the issue of self-selection relating to those codes seeking OFT approval – i.e. those codes seeking OFT approval may be more stringent and have higher levels of compliance, or codes that have achieved OFT approval (at least in part) may have been in existence longer, and therefore be more well-established (and adhered to).
106. Views on the benefits to businesses of OFT code approval were mixed; for example, over half of current members of an OFT-approved code report that the benefits outweigh the costs, with a small minority (3%) reporting that the burden exceeds the value. On average, members of an OFT-approved code report a 1.2 percentage point drop in the number of complaints, compared to non-members.

2010 study

107. The 2010 study investigated customer satisfaction across three codes, at various stages of approval: the Carpet Foundation Code (which had already achieved full OFT approval); the British Healthcare Trades Association code (which had achieved stage one approval and has since achieved full approval), and the Motor Industry Service & Repair Code (which completed stage one approval during the period of the research).
108. Evidence on the effectiveness of CCAS approval at signalling quality to consumers was inconsistent across the 3 codes, although this might reflect their different stages of development, and/or differences between the sectors themselves. In terms of customer satisfaction, customers of member businesses generally tended to be more satisfied than customers of non-members (except in relation to Motor Industry Service & Repair, which indicated the opposite relationship). For example, in the carpet market 64% of member customers were 'very satisfied', compared to 47% for non-member customers; the difference was smaller for assistive products (where 68% of member customers were 'very satisfied', compared to 60% for non-member customers) and reversed for motor vehicle service & repair, with 54% of non-applicant garages being 'very satisfied', compared to 37% for applicant garages. Similarly, there are likely to be issues around causality and self-selection around interpreting these results, as highlighted above.
109. These relationships were also true in relation to both value for money assessments and customer confidence in being treated fairly, comparing experiences of customers of member businesses with customers of non-member businesses – i.e. higher in carpets and assistive products, but lower in motor vehicle service and repair.

² 'Review of Impact on business of the Consumer Codes Approval Scheme', October 2006, A report for the OFT by the centre for economics and business research ltd (cebr) with Opinion Research Business.

³ 'Consumer Codes Approval Scheme: Evaluating consumer experiences', report by IFF research, July 2010.

Issue

Low awareness of code approval scheme

110. The 'Review of impact on business of the Consumer Codes Approval Scheme' in October 2006 found that more than 80% of members of bodies with OFT-approved consumer codes were aware of the scheme. However, the review found that less than 20% of respondents in businesses outside of the scheme were aware of it. Among travel agents and tour operators, awareness of the CCAS was substantively below the awareness of the original code of practice.⁴
111. Although the OFT conducted a campaign to raise awareness of CCAS among consumers and businesses in March 2008, an independent evaluation found that among consumers the proportion of respondents recognising the OFT-approved code, when shown it, remained below 20%, even post-campaign.⁵

Low number of codes

112. Currently ten consumer codes⁶ are approved by the OFT including important sectors of consumer spend, and four consumer codes⁷ have currently passed stage one of the approval process, with a further six going through the first stage of approval. The low number of codes may be due to the cost of implementing and maintaining an approved code to business, low awareness of the scheme or a perception among businesses that the benefit of having an approved code is low. In addition, some applications have been closed by the OFT and some withdrawn by code sponsors.

Length of time taken for approval

113. The OFT reported that the CCAS process can take up to two years from application to code approval. The lengthy process may be due to resourcing and prioritisation issues and changes of personnel within the OFT and/or code sponsor, changes to the regulatory environment, changes to the code sponsors remit and new areas of consumer detriment which need to be considered. Arguably, the significant amount of time it takes to establish schemes has led to lower take-up of the scheme and lower awareness.
114. The 'Review of impact on business of the Consumer Codes Approval Scheme' in October 2006, noted that almost every interviewee commented on the time that the approval process takes and noted the widespread concern over the time it takes the OFT to respond to requests, particularly when approved sponsors want to revise their codes.

Stringent and rigorous application procedure

115. To gain approval, codes must meet a range of core criteria including organisational, preparation, content, complaints handling, monitoring, enforcement and publicity criteria. The scheme has been criticised for being bureaucratic and inflexible.

Rationale

116. Evidence indicates that the current OFT Consumer Code Approval Scheme (CCAS) is subject to a number of problems, such as low consumer awareness of the scheme and inflexible/lengthy approval processes, leading to relatively few approved codes. Given the existence of other approval schemes – such as those offered by local authorities and TrustMark – along with the prevalence of consumer-based feedback websites⁸, it is questioned whether such a scheme is a good use of public money. That aside, the location of such a scheme is in any case questionable given that that nature of its consumer powers would not readily fit within the core objectives of the new competition authority, likely to succeed the OFT

⁴ http://www.offt.gov.uk/shared_offt/Approvedcodesofpractice/offt870.pdf

⁵ 'CCAS Campaign – March 2008', OFT

⁶ Motor Codes Ltd, Vehicle Builders and Repairers Association Ltd, Direct Selling Association, The Property Ombudsman, The Carpet Foundation, Robert Bosch Ltd (car servicing), British Association of Removers, Debt Managers Standards Association, British Healthcare Trades Association and Institute of Professional Willwriters

⁷ Renewable Energy Association, Motor Codes Ltd (car servicing and repair), Motor Codes Ltd (vehicle warranty products) and Safebuy (internet retailing)

⁸ Such as www.ratedpeople.com and www.myhammer.co.uk

Options identification

117. In considering options for reform relative to a 'do nothing' scenario, there are three main options for reform:
- Option 1: Cease funding for the Consumer Code Approval Scheme;
 - Option 2: Transfer responsibility (and associated funding) for statutory approval of consumer codes of practice to an alternative body, or
 - Option 3: Create a new public body to undertake statutory approval of consumer codes.
118. For this policy area, the 'do nothing' option would be for the OFT's current responsibilities on consumer code approvals to remain with the OFT (or its proposed successor body, the single CMA). However, this would not help to contribute towards delivering consumer services more cost-effectively.

Q7: Do you think other options should have been considered in relation to this policy area?

Discarded options

Option 3

119. From the above list, Option 3 would involve the creation of a new body to carry out statutory approvals of consumer codes, based on the powers currently exercised by the OFT in this regard. This body would then exist alongside other existing approval schemes offered by the private and voluntary sectors, or by local authority networks.
120. This option would achieve the same ends (and therefore confer the same benefits) as Option 2, but would entail additional costs associated with establishing this new body, both in terms of set-up costs and training/upskilling of staff. Preliminary estimates of these costs – in relation to the former, based on recent experience of establishing the Groceries Code Adjudicator which would be expected to be of similar size; in relation to the latter, based on costs of establishing the scheme within the OFT – are £0.2m⁹ and £0.5m¹⁰ respectively.
121. In addition to the costs outlined above, such an option would be inconsistent with the Government's desire to reduce the complexity of the consumer landscape and the number of public bodies, particularly when there are other bodies available. Therefore, this option has not been developed further.

Q8: Do you agree with the analysis of the above option?

Options analysis

Do nothing

122. For this policy area, the 'do nothing' option would be for the OFT's current responsibilities on consumer code approvals to remain with the OFT (or its proposed successor body, the single CMA). However, this would not help to contribute towards delivering consumer services more cost-effectively.

⁹ <http://www.bis.gov.uk/assets/biscore/business-law/docs/competition-matters/10-1011-groceries-supply-code-practice-government-response>

¹⁰ According to OFT annual reports, a total of £0.49m was spent on 'publicity and events' and 'special projects and consultancy' in 2003-4 (£0.15m) and 2004-5 (£0.34m)

Option 1: Cease funding for the Consumer Code Approval Scheme

123. Under this option, funding for the Consumer Code Approval Scheme will cease, which is estimated to save the Government £0.8m per year (including estimated staff costs and marketing costs).¹¹ The Government is extremely reluctant to cut back activities which only the state can provide and which are vital for front-line consumer protection, but it does not consider that CCAS falls into that category given, for example, the number of successful accreditation schemes developed elsewhere.
124. If the OFT no longer operated the CCAS, there is an opportunity for the commercial and voluntary sectors with recognised brands that are respected and trusted by consumers to fill the gap, as is the case in a number of areas beyond the OFT's scheme. Many local authorities also run schemes which aim to give consumers a method for finding trustworthy businesses and some LATSS operate the Buy with Confidence Scheme which does a similar job. One of the ways that these schemes are promoted is through the Local Authority Assured Trader Scheme Network (LAATSN).
125. It is not clear, however, that the full value of the OFT CCAS scheme would necessarily be recreated by the commercial and voluntary sector and by the existing local authority network in the event of CCAS being discontinued. The Government is therefore exploring alternative non-statutory national accreditation systems which could be put in place – including systems for existing CCAS members. More detail on these proposals is set out in the 'risks' section below.

Costs

Redundancy costs to the OFT from ending the CCAS

126. Under this option, there would be redundancy costs resulting from the closure of the CCAS. As there are not many people working on CCAS at OFT, these are likely to only be a small proportion of the overall £6.5m redundancy costs estimated earlier, i.e. **£0.2m**.

Costs to firms/Impact of lower consumer confidence resulting from reduction in value of code approval

127. As above, there may be costs to business and consumers if alternative bodies providing approval to self-regulatory schemes are seen as less valuable than OFT approval (as outlined in the risks section below). This may then result in reduced consumer confidence in the effectiveness of self-regulatory schemes and potentially reduced consumption (and hence business activity).

Benefits

Savings to Government from ceasing funding for CCAS

128. There are savings to Government associated with closing the CCAS, amounting to **£0.8m per year**.

Savings to firms from reduced compliance costs

129. In addition, there is evidence that the costs to firms of implementing and maintaining an OFT-approved code are higher than the costs of pre-existing self-regulatory codes, as estimated by CEBR in their independent 2006 evaluation of the CCAS.¹² Furthermore, the evaluation reports some code sponsors being deterred from applying for approval from CCAS because of these higher costs. It may be that such costs are justifiably higher, as they result in a more socially optimal level of compliance among code members. If not, higher costs can lead to economic inefficiency, even if firms are willing to pay such costs – for example, if higher costs result in fewer applications than is socially optimal, this would lead to an overall welfare loss to society.
130. We do not, however, know what proportion of these additional compliance costs associated with CCAS may be unnecessary. We therefore assume that the value to firms of choosing to participate and comply with an approved code is likely to be at least equal to the costs incurred by them from

¹¹ This is based on figures from the 2010/11 OFT budget; however, the future budget of the OFT is yet to be determined and may be different to the past

¹² Estimated at £142-£184 per business (excluding staff time) (source: http://www.offt.gov.uk/shared_offt/Approvedcodesofpractice/oft870.pdf)

doing so. Therefore, we have estimated that the quantifiable net benefit to firms of ceasing funding for the CCAS is zero.

Q9: Do you have any evidence that could help to refine the estimates of costs and benefits associated with this option?

Option 2: Transfer responsibility (and associated funding) for statutory approval of consumer codes of practice to an alternative body

131. Under the Enterprise Act 2002, the OFT is the designated body for approval of consumer codes of practice. It may be possible to transfer this statutory responsibility, along with associated funding of £0.8m, to another consumer-related body (such as Citizens Advice, Consumer Focus, LATSS or Which?). However, given that some of these organisations already have non-statutory approval schemes – such as the local authority-based ‘Buy with confidence’ scheme or Which?’s ‘Best Buy’ label – conferring a statutory responsibility on such organisations for these services (which would remain voluntary in any case, as they are now) would be likely to lead to unnecessary expenditure.

Costs

Redundancy costs to the OFT from ending the CCAS

132. The only direct costs associated with this option are redundancy costs resulting from the closure of the CCAS. As there are not many people working on CCAS at OFT, these are likely to only be a small proportion of the overall £6.5m redundancy costs estimated earlier, i.e. **£0.2m**.

Potential one-off costs of scaling up resources of alternative bodies to provide code approval and/or publicising alternative schemes

133. Even if funding currently provided to the OFT for the administration of CCAS were also to be transferred to another body, there may be some additional one-off costs associated with scaling up resources for monitoring scheme compliance and assessing applications, as well as publicising the new scheme to both consumers and code sponsors. Based on costs of establishing the scheme within the OFT, these one-off costs could be **up to £0.5m**.¹³ We would appreciate respondents’ views on these estimates and will continue to work with relevant bodies to improve these estimates further during the consultation period.

Costs to firms/Impact of lower consumer confidence resulting from reduction in value of code approval

134. As above, there may be costs to business and consumers if alternative bodies providing approval to self-regulatory schemes are seen as less valuable than OFT approval (as outlined in the risks section below). This may then result in reduced consumer confidence in the effectiveness of self-regulatory schemes and potentially reduced consumption (and hence business activity). However, this cost is likely to be reduced significantly, if the same legislative responsibilities currently bestowed on the OFT are transferred to the alternative body.

Q10: Do you have any evidence that could help to refine the cost estimates presented above?

Benefits

Potential saving to code members in reduced compliance costs for alternative code approval schemes compared to CCAS

135. Under this option, if code approval by alternative bodies can be provided at a lower cost than the CCAS as currently offered by OFT – for example, if an alternative CCAS run by another body required fewer staff, or had a shorter application process and/or less onerous monitoring requirements for code sponsors – this would represent a saving compared to the current situation.

¹³ According to OFT annual reports, a total of £0.49m was spent on ‘publicity and events’ and ‘special projects and consultancy’ in 2003-4 (£0.15m) and 2004-5 (£0.34m)

These savings could then be passed on to the Government (and ultimately taxpayers), as this would require less funding. However, this is a hypothetical benefit at this stage, as we have not identified any other bodies that would be willing to carry out code approval in a similar way to CCAS.

Risks

Option 1

136. The analysis above highlights the risk that, under this option, alternative non-statutory schemes currently operated by the commercial and voluntary sectors may not be able to recreate the full value of the CCAS. The probability of this risk materialising depends on a number of smaller risks – for example, businesses may be unaware of alternative bodies from which to seek approval; approval given by bodies other than the OFT may be perceived by consumers to be weaker, which may have a detrimental impact on business, or alternative approval bodies may operate lower approval thresholds, potentially weakening consumer protection.
137. However, the fact that accreditation schemes operate successfully in many areas beyond the CCAS – for example, many local authorities already run schemes which aim to give consumers a method for finding trustworthy businesses and some LATSS operate the Buy with Confidence Scheme, which does a similar job – suggests that the risks identified above are likely to be minimal. Nevertheless, the Government is exploring alternative non-statutory national accreditation systems which could be put in place to mitigate the overall risk even further, which are set out below.

‘Primary authority’-style approval arrangements

138. Some code promoters value the feedback they receive from OFT when going through the code approval process, such as guidance on legal compliance as well as challenge on how to ensure the high standards are met. One option for recreating this challenge model might be to offer the possibility of a “Primary Authority”-style arrangement between a code promoter, LBRO and a suitable LATSS. Government has already had promising initial discussions with relevant organisations about such a model; work on developing this idea further will be undertaken during the consultation period.
139. Such a system would operate in much the same way as ‘Primary Authority’ relationships in relation to LATSS enforcement more generally, so businesses would already be very familiar with such a system. Furthermore, LATSS are already a respected and trusted organisation in the eyes of consumers, in the context of their enforcement work. In the context of code certification, the Primary Authority arrangement would have to be with the code promoter. Given the importance of consistency of advice, Primary Authorities would likely need to consult with other relevant Primary Authorities operating in the particular market sector. Any complaints received from around the country against members of the ‘approved’ code could be channelled through the Primary Authority and taken up by the code promoters, who would have to take appropriate action against repeat offenders or lose the benefit of their Primary Authority approval.

Q11: Do you think that the arrangements outlined above (‘primary authority’-style approval arrangements) would be beneficial to consumers, code sponsors and member firms?

British Standards Institute – transposition to standards/specification or Kitemark

140. A further possibility would be for the British Standards Institute (BSI), as the UK’s National Standards Body, to transpose existing CCAS-approved codes into British Standards or Publicly Available Specifications, subject to the agreement and participation of code sponsors and other industry parties. BSI already has a number of standards on issues of consumer concern, such as on complaints handling and inclusive service provision, together with industry-specific standards relating to consumer-facing services (e.g. home removals, vehicle repairs). BSI is also a leading certification body and is the owner of the Kitemark®, the certification mark that shows a product or service has been tested independently and audited to ensure it meets appropriate standards. BSI is willing to consider whether its Kitemark® certification system could offer code sponsors a suitable brand to promote their members’ high standards. The Kitemark® was developed by BSI over 100

Q12: Do you think that the arrangements described above mean that BSI could offer a suitable alternative approval mechanism, in the absence of CCAS?

Option 2

141. Some of the risks identified above in relation to Option 1 would no longer apply – for example, enacting legislation would need to specify the body giving statutory approvals, so businesses would be fully aware. However, even with statutory backing, approval given by an alternative named body other than the OFT may be perceived by consumers to be weaker, leading to a detrimental impact on business. Similarly, current legislation does not specify the approval threshold currently required by the OFT as part of the CCAS, so an alternative approval body – even with statutory backing – may have lower approval thresholds, potentially weakening consumer protection.

Summary

142. Evidence indicates that there are a number of problems with the current CCAS, such as low awareness, few codes successfully approved and costly and length application procedures. In view of the existence of other validation schemes and the prospect of new ones in the private and voluntary sectors, the Government does not believe it necessary to preserve the current statutory Consumer Code Approval Scheme operated by the OFT. Furthermore, given the desire to reduce the complexity of the consumer landscape – and to avoid any additional costs associated with such an approach – the Government is not minded to establish a new public body to undertake code approvals.

143. In order to avoid duplication with existing schemes and maximise the cost-effectiveness of public resources across the consumer landscape, it is felt that the statutory powers on which CCAS is based should not be transferred to alternative bodies (Option 2).

144. Therefore, the Government's preferred option is to remove funding for the Consumer Codes Approval Scheme. In relation to the potential risks from ending such a scheme, although there is no plan to replace the CCAS like-for-like, the Government is exploring options for existing scheme members going forwards. This option helps to reduce costs to the taxpayer and contributes to the overall objective of delivering consumer services more cost-effectively. This also supports the Government's broader agenda of facilitating market solutions, engaging the voluntary sector and reducing the role of the state. The consultation will invite stakeholders to provide further information on the risks associated with removing funding for CCAS, and also explore their views on alternative accreditation schemes.

Title: Consumer Landscape Review: Transfer of consumer advocacy responsibilities Lead department or agency: Department for Business, Innovation & Skills Other departments or agencies: Office of Fair Trading Citizens Advice Consumer Focus	Impact Assessment (IA)
	IA No: BIS0268
	Date: May 2010
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
Contact for enquiries: Philip O'Donnell (0207 215 6764) Anthony Morris (0207 215 5670)	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

General consumer advocacy is currently carried out by a range of organisations, the main publicly-funded bodies involved in general advocacy are Consumer Focus, Citizens Advice and Citizens Advice Scotland. There is evidence of significant overlap between these bodies. The Government would like to reduce the complexity of the consumer landscape and given the current budgetary constraints, needs to ensure that any public expenditure is used in the most cost-effective manner. These proposals should reduce overlap between Consumer Focus and the Citizens Advice service and by integrating advocacy with consumer information, advice and education in a single organisation, achieve further efficiency savings.

What are the policy objectives and the intended effects?

The intended aims of this reform are to reduce the complexity of the consumer landscape, through the elimination of overlaps between Consumer Focus and Citizens Advice and through the integration of advocacy functions within the organisation primarily responsible for consumer advice and education, to improve cost effectiveness of public expenditure on consumer policy.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

In considering the potential options for reform, two options were selected for substantive analysis:

- Option 1: Transfer most powers and functions from Consumer Focus to Citizens Advice;
- Option 2: Transfer Consumer Focus general advocacy functions to Citizens Advice, with sectoral advocacy functions remaining with Consumer Focus.

Three further options were considered – abolishing Consumer Focus entirely, promoting closer co-operation between existing bodies, and transferring funding for Citizens Advice general advocacy to Consumer Focus. The first of these further options would maximise savings to taxpayers but consumer protection would be unacceptably diminished. The second would not simplify the consumer landscape and efficiency savings would be limited. The third may not reduce the complexity of the consumer landscape if Citizens Advice continued their advocacy functions, nor would it strengthen the frontline of consumer protection. Option 2 would not reduce the complexity of the consumer landscape and efficiency savings to Government would not be maximised, nor would it secure the benefits from synergies with local information through the Citizens Advice case management system. Option 1 is preferred, as it would strengthen the link of consumer advocacy to local issues and also generate significant efficiency savings.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 4/2018

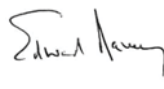
What is the basis for this review? Duty to review. **If applicable, set sunset clause date:** N/A

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes
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Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 08/06/2011

Summary: Analysis and Evidence

Policy Option 1

Description: Transfer most powers and functions from Consumer Focus to Citizens Advice

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 5.9	High: 18.9	Best Estimate: 12.7

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	3.8	2	0	3.7
High	6.8		0	6.7
Best Estimate	5.3		0	5.2

Description and scale of key monetised costs by 'main affected groups'

One-off transition costs incurred by government associated with the transfer of Consumer Focus functions and powers to Citizens Advice (£3.8m-6.8m).

Other key non-monetised costs by 'main affected groups'

Familiarisation costs for businesses and consumers in relation to the new consumer landscape are likely to be negligible, given very high recognition of Citizens Advice and automatic redirection of telephone and on-line enquiries. Loss of expertise from Consumer Focus is likely to be minimal given Citizens Advice current involvement and expertise in this area, and joint working between Consumer Focus and Citizens Advice on the design of the new Sectoral advocacy functions in Citizens Advice for the future.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	N/A	1.9	12.6
High	0		3.4	22.6
Best Estimate	0		2.7	17.9

Description and scale of key monetised benefits by 'main affected groups'

Eliminating overlap and duplication of current activities between Consumer Focus and Citizens Advice, which should deliver annual efficiency savings of £1.9m-3.4m per year.

Other key non-monetised benefits by 'main affected groups'

General advocacy will benefit from locally-gathered information on what is causing concern to consumers and access to raw data from consumer Direct; specific advocacy in the energy and postal services sectors will benefit from face-to-face advice service from those customers who are not comfortable with telephone or online services. Consumer Focus will be abolished, which will enable advocacy resource to be brigaded in Citizens Advice, reducing the complexity of the landscape and promote the message that for all non-financial information and advice consumers should go to Citizens Advice.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

It is assumed that the efficiency savings from this merger will be passed on to Government in line with current levels of funding. There is a risk that Citizens Advice and CAS may not have sufficient expertise to take on relevant advocacy responsibilities. However, both Citizens Advice and CAS already have significant expertise and a strong track record of consumer advocacy; the proposals ensure they will have sufficient resource; and there is also the prospect of transferring relevant staff from Consumer Focus. BIS is currently working with both organisations to minimize the risks to delivery of consumer advocacy, which therefore seem relatively low. NAO research suggests that redundancy costs are likely to represent around 17% of the total transfer costs, and we will do further work to refine this estimate during the consultation.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Summary: Analysis and Evidence

Policy Option 2

Description: Transfer Consumer Focus general advocacy functions only to Citizens Advice

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.0	High: 12.2	Best Estimate: 6.5

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2.4	2	0	2.4
High	4.7		0	4.6
Best Estimate	3.6		0	3.5

Description and scale of key monetised costs by 'main affected groups'

One-off transition costs incurred by government associated with the transfer of Consumer Focus functions and powers to Citizens Advice (£2.4m-4.7m).

Other key non-monetised costs by 'main affected groups'

Familiarisation costs for businesses and consumers in relation to the new consumer landscape are likely to be negligible, although this point will be re-visited in the light of consultation responses; loss of expertise from Consumer Focus, though this is likely to be minimal given Citizens Advice current involvement and expertise in this area. The separation of general and sectoral advocacy is likely to be eliminate the effectiveness of shared insights and cost crossovers.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	N/A	0.7	4.6
High	0		2.2	14.6
Best Estimate	0		1.5	10.0

Description and scale of key monetised benefits by 'main affected groups'

Eliminating overlap and duplication of current activities between Consumer Focus and Citizens Advice, which should deliver annual efficiency savings of (£0.7m-2.2m per year).

Other key non-monetised benefits by 'main affected groups'

General advocacy will benefit from locally-gathered information on what is causing concern to consumers, but there will be disaggregation between sectoral and general advocacy and no efficiency gains from integrating sectoral advocacy capabilities with sources of intelligence on the front line and capacity for face-to-face advice for disadvantaged consumers in the energy and postal sectors. Consumer Focus will not be abolished so gains from elimination of overheads will not be realised.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

It is assumed that the efficiency savings from this merger will be passed on to Government in line with current level of funding. There is a risk that Citizens Advice and CAS may not have sufficient expertise to take on relevant general advocacy responsibilities. However, both Citizens Advice and CAS already have significant expertise and a strong track record of consumer advocacy; and there is also the prospect of transferring relevant staff from Consumer Focus. BIS is currently working with both organisations to minimize the risks to delivery of consumer advocacy, which seem relatively low. NAO research suggests that redundancy costs are likely to represent around 17% of the total transfer costs and, as with option 1, we will do further work refine this estimate during the consultation.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	Great Britain				
From what date will the policy be implemented?	April 2013				
Which organisation(s) will enforce the policy?	Citizens Advice				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: 0		Non-traded: 0		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 0		Benefits: 0		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	81
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	82
Small firms Small Firms Impact Test guidance	No	82
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	82
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	82
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	82
Human rights Human Rights Impact Test guidance	No	82
Justice system Justice Impact Test guidance	No	82
Rural proofing Rural Proofing Impact Test guidance	No	82
Sustainable development Sustainable Development Impact Test guidance	No	82

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
13	Public Bodies Bill announcement: http://services.parliament.uk/bills/2010-11/publicbodieshl.html
14	
15	
16	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	2.65	2.65	-	-	-	-	-	-	-	-
Annual recurring cost	-	-	-	-	-	-	-	-	-	-
Total annual costs	2.65	2.65	-	-	-	-	-	-	-	-
Transition benefits	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	-	-	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7
Total annual benefits	-	-	2.7	2.7	2.7	2.7	2.7	2.7	2.7	2.7

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Introduction

145. This section of the impact assessment addresses proposed changes in the consumer advocacy landscape. The Government's preferred option is to transfer most of the powers and functions of Consumer Focus to Citizens Advice (CitA), i.e. Option 1. Citizens Advice combination of long-standing expertise in national policy and daily front-line interaction with citizens especially the more vulnerable, means that there is the opportunity to make a strong connection between the needs of consumers in their local communities and the national policy and advocacy functions. In addition to strengthening the frontline of consumer empowerment and protection, this reform should also help to contribute to the objective of reducing complexity in the consumer landscape, and improving the efficiency of government expenditure through, for example, the elimination of overheads associated with two organisations rather than one.

Background

146. Advocacy is both the representation of consumers' interests and the defence of their rights and is currently carried out by a range of organisations, many of which receive some public funding. Advocacy activities include research and analysis on the way that particular markets are serving consumers and making representations on the basis of the results. They also include investigation of particular cases, either where there appears to be an issue of general interest, or where an individual is unable to achieve redress through established mechanisms. Advocacy is an important element of empowering consumers – as a group they should be confident that their concerns are being heard and communicated in ways that are likely to effect change. Individually, many consumers want to feel confident that their voice is being heard by businesses and that there is a mechanism for redress if things go wrong.

Sectoral advocacy

147. A distinction is made within this IA between general advocacy functions, which can either apply to non-individually regulated consumer markets or across all consumer-facing markets, and sectoral advocacy functions, which relate to individual regulated sectors and have a specific role within the regulatory regimes for these sectors.

General advocacy

148. Consumer advocacy bodies have a vital role to play in competitive markets in improving standards and encouraging customers to compare prices in order to make informed choices. The need for effective consumer representation is equally strong, if not stronger, in those markets in which customers do not have a choice of supplier or where competition is restricted

149. Public funding for general consumer advocacy is currently focused on two organisations – Consumer Focus and the Citizens Advice service (CitA) – with some additional advocacy provided by the Office of Fair Trading (OFT).

150. **Consumer Focus** is a statutory consumer advocacy body which operates across the whole of the economy (general advocacy) with specific responsibility for the gas, electricity and postal sectors (sectoral advocacy). It has distinct operations in England, Wales and Scotland. It undertakes and publishes research about consumer matters, which can help Government and sectoral regulators formulate policy.¹ It has the power to investigate cases of complaints which are of general interest to consumers as a whole and, in the energy sector for example, the power to appeal certain decisions made by the regulator on behalf of consumers. It also provides advice to consumers and micro-businesses. In particular, it has an Extra Help Unit which provides assistance and advice for

¹ In 2009-10, Consumer Focus conducted approximately 60 research and engagement projects using a mixture of quantitative, qualitative and deliberative research techniques, which covered topics ranging from public services to mobile phones.

vulnerable gas, electricity and postal services consumers and for electricity and gas consumers who are facing difficulties because of disconnection of supply.

151. Consumer Focus's budget for 2010/11 is £14.9m; over one-third of this is from BIS, with the rest coming from licence fees paid by energy suppliers and the postal industry.² Consumer Focus operates in Wales, Scotland and Northern Ireland through territorial organisations with a specific remit to look at issues facing the devolved nations. In Northern Ireland, Consumer Focus deals with postal services issues.
152. Consumer Focus was created on 1 October 2008, by the merger of Postwatch, Energywatch and the Welsh, Scottish and National Consumer Councils (NCC) and generated efficiency savings up to £7m per year³. The actions of Consumer Focus have brought about change in a number of markets and public services to deliver better value, access, customer service and consumer protection. Since their creation, Consumer Focus estimate that they have recovered £500m for consumers in direct and indirect benefits (equating to £250m per annum), which includes the following: returning £70m to 1.8m Npower customers because of energy bill overpayments in 2007; 100,000 consumers a week who switch energy supplier or tariff and save an average of £32 a year. More research, however, would be needed to establish whether all the benefits can be fully attributed to Consumer Focus i.e. some consumers might have switched energy supplier anyway.
153. **Citizens Advice** service – comprising Citizens Advice in England and Wales, along with its Scottish counterpart, Citizens Advice Scotland – are charitable membership organisations whose members, the Citizens Advice Bureaux (CABx), are themselves independent charities. Citizens Advice collects and analyses evidence from CABx clients to influence the Government and business policies on behalf of citizens locally, regionally and nationally. From this local intelligence, Citizens Advice is able to spot trends and collate evidence of Government policies or services which are not working. The Citizens Advice service writes and researches evidence reports and detailed responses to consultations and also provides numerous briefings for MPs, MSPs and Welsh Assembly Members. Volunteer campaigners or social policy co-ordinators in local bureaux play a key role in collating evidence and raising the profile of policy concerns locally, regionally and nationally.
154. **The OFT** also conducts consumer-oriented research about the functioning of particular markets. The OFT does not consider itself to be a consumer advocacy body, as such, but to the extent that it conducts 'pure' consumer market research where there is no competition angle, its activity overlaps with Consumer Focus and others.

Issue

155. The three general consumer advocacy bodies outlined above are all active, which means there is not a single, coherent, voice for the consumer. This creates scope for duplication across these bodies in various activities, such as analysing levels of consumer detriment to help determine policy priorities across different markets, or speak with expertise and authority for all consumers in discussion with companies, with Government, or in Europe.
156. In reviewing the consumer landscape, BIS has found evidence of overlap and duplication between the various advocacy bodies - for example, there is some overlap on responses to government consultations from both Consumer Focus and Citizens Advice. Similarly, both bodies produce research in related areas (energy and financial sector) which suggests there could be efficiency savings by combining both bodies (e.g. specialist and backroom staff could be shared across the two organisations).
157. In the current fiscal environment, Government funding is under severe pressure. This means that savings should be realised in every area of government policy, including consumer advocacy. Efficiency savings have already been realised through the merger of several consumer-related bodies into Consumer Focus, as outlined above. It is believed that further savings can be made through changes to the institutional framework for consumer policy, with additional benefits from

² Consumer Focus funding was provided by BIS (£5.7m), energy license holders (£5.8m) and postal licence holders (£3.4m)

³ The cost of running Postwatch, Energywatch and NCCs in 2006/7 was £22.6 million. Energywatch and Postwatch 1st tier advice services were transferred to Consumer Direct, the cost of running this service is around £1m per year, and the funding of Consumer Focus in 2009/10 was around £15 million.

merging the Consumer Focus strengths with those of Citizens Advice, including the front line Citizens Advice Bureaux in England, Scotland and Wales.

Rationale

158. The Government would like to reduce the complexity of the consumer landscape and, given the current budgetary constraints, needs to ensure that any public expenditure is used in the most cost-effective manner. The main publicly-funded bodies involved in general advocacy are Consumer Focus and the Citizens Advice services – Citizens Advice and Citizens Advice Scotland. These proposals are intended to reduce the overlap between the areas of work of Consumer Focus and the Citizens Advice services identified above. Brigading advocacy resource into a single organisation should both improve the effectiveness of advocacy through, for example, synergies with Citizens Advice local information, and also achieve efficiency savings through the reduction of overheads.

Options identification

159. In order to address the problems identified above, five potential options were considered:

- Option 1: Transfer most of the functions of Consumer Focus to Citizens Advice:
- Option 2: Transfer Consumer Focus general advocacy functions to Citizens Advice
- Option 3: Transfer Citizens Advice general advocacy funding to Consumer Focus
- Option 4: Abolish Consumer Focus without transferring any of its functions
- Option 5: Promote closer co-operation between existing bodies

Discarded options

160. The first two options above have been subjected to detailed cost-benefit analysis. The reasons for not developing the last three options further are set out below.

Option 3

161. Under this option, Citizens Advice general advocacy funding from BIS would be transferred to Consumer Focus. They would be able to expand their general advocacy functions and would continue to provide their sectoral advocacy services. This may allow the elimination of overlaps between the two organisations, but it is not certain that reduced funding from central Government would necessarily result in Citizens Advice scaling back their general advocacy functions. As Citizens Advice are a third-sector organisation, Government has no mandate to dictate what activity they choose to undertake. As a result, they may decide to cut back in other areas, such as advice to consumers, and continue with their current general advocacy functions, which would impact consumers negatively.

162. If Citizen Advice stopped their advocacy functions altogether, this would remove the direct link between national advocacy and local delivery of services, which could reduce the overall value and relevance of consumer representation. In addition, Citizens Advice have established expertise in general advocacy functions, which would be lost in the event of funding being transferred to Consumer Focus (unless existing staff were also transferred).

Option 4

163. Under this option, the powers, functions and funding of Consumer Focus would be abolished and not transferred to Citizens Advice.⁴ However, although this would simplify the consumer landscape by removing one public body completely, abolishing all Consumer Focus functions without transferring them to another body would significantly reduce consumer protection, resulting in the first policy objective within this IA not being met. In terms of costs and benefits, this option would generate the greatest savings to the Exchequer (£5.7m per annum). However, as responsibilities

⁴This option would require the CERA Act being amended, in particular removing Consumer Focus' statutory duties

under Consumer, Estate Agents and Redress Act 2007 require the provision of facilities to aid vulnerable consumers in relation to energy and postal services, it is unlikely there would be any savings to firms in those industries that currently pay a levy to Consumer Focus.

Option 5

164. This option would see closer co-operation between Consumer Focus and Citizens Advice. This could potentially be achieved through, for example, through pursuing joint membership of their Boards, encouraging further sharing of expertise through staff secondments and encouraging greater sharing of their client data. This option was not developed further, as closer co-operation would not achieve the objective of simplifying the landscape for consumers; nor would it secure the full efficiency savings from reducing the number of organisation, as there would still be (for example) separate IT systems, Boards and Chief Executives for the two organisations.

Q13: Do you agree that these options should not be developed further?

Options analysis

Do nothing

165. The consumer landscape would remain unchanged. Consumer Focus would continue to have the right to investigate any consumer detriment if it was of wider public interest and would continue to provide information about consumer rights in the energy and postal sectors.

Option 1: Transfer most of the functions of Consumer Focus to Citizens Advice

166. Under this option, the majority of the powers and functions of Consumer Focus – including powers to investigate complaints made by vulnerable consumers in the electricity, gas and postal services sectors – would be transferred to the Citizens Advice service.⁵ In respect of some of the other functions of Consumer Focus, however, especially where there is a degree of overlap with existing Citizens Advice services, Consumer Focus functions would simply be stopped, allowing efficiency gains to be realised.⁶ Some staff from Consumer Focus could be invited to join Citizens Advice. In addition, it is the intention of the Government to transfer most of the research budget currently held by Consumer Focus to Citizens Advice in order to enhance its overall research capacity.

Costs

167. There will be one-off transition costs from transferring functions and powers from Consumer Focus to Citizens Advice. These costs (e.g. Citizens Advice reorganising and training current staff) will in the most part fall on Government and Citizens Advice.

Transition costs from transferring functions from Consumer Focus to Citizens Advice

168. Many Consumer Focus functions will be lifted into the new Citizens Advice environment with redundancy costs mainly limited to staff in those activities which will be stopped rather than transferred.⁷ Redundancy costs have been estimated to be £0.6m-1.2m given the volume of staff involved and their average cost and employment profile.⁸ Recent analysis of Government re-organisations by the NAO suggests that redundancy costs are typically 17% of total transition costs, which would imply overall costs of **£3.8-6.8m**.⁹ Although this figure is based on estimates of redundancy costs only, we are working closely with Consumer Focus to refine these estimates, including other components of the likely overall transition costs (e.g. accommodation, IT, training).

⁵ For example, BIS envisages that the following functions will be transferred: electricity, gas and postal sectoral advocacy, EU and international advocacy, the Extra Help Unit (which deals with investigating complaints relating to disconnection of gas or electricity) and consumer research activities

⁶ EU engagement from Consumer Focus and some research activities would be stopped

⁷ BIS estimates that between 13%- 23% of Consumer Focus activities will be stopped or will be eliminated by efficiency savings

⁸ The assumptions behind these costs estimates are sensitive to the parties involved in this transfer

⁹ http://www.nao.org.uk/publications/0910/reorganising_government.aspx

Loss of expertise through loss of Consumer Focus staff

169. Although Consumer Focus is a relatively new organisation, it was formed out of three other bodies with many years of experience in consumer advocacy. Over the last couple of years, it has continued to build its expertise, especially in the energy and postal sectors, providing information and championing consumer rights. This expertise could be lost in the event of a transfer of functions to Citizens Advice. If existing Consumer Focus expertise were not imported into Citizens Advice at the time of transfer, it may take Citizens Advice some time to build up its reputation and proficiency in this area, which would be detrimental for consumers. However, this risk can be substantially mitigated if relevant staff from Consumer Focus are transferred to Citizens Advice.

Familiarisation costs associated with new landscape for consumers and businesses

170. Consumers who are currently well-informed about the appropriate advocacy body to go to will need to familiarise themselves with the new landscape, therefore imposing some cost on them. These costs are expected to be negligible as Citizens Advice is already a very well-recognised source of information for consumers and direct contact between members of the public and Consumer Focus is, in any case limited. In terms of telephone and online enquiries, consumers can simply be re-directed to the call centre/new site. In addition, the brand awareness of Citizens Advice is relatively high, so consumers should quickly become accustomed to knowing where to go. These costs are expected to be negligible.

Benefits

171. Citizens Advice and Citizens Advice Scotland (CAS) is a third-sector organisation with high brand recognition and an extensive network of local bureaux supported by a central guidance/policy and social advocacy function.

172. This option, in conjunction with other proposals in this IA, will simplify the consumer landscape. The increased profile of the new unitary advocacy body should help to improve its influence over regulators, businesses and Government.

Efficiency savings

173. The cessation of some existing Consumer Focus functions will also allow the eliminations of overlaps and deliver efficiency savings through economies of scale and scope – for example, from having a single central support team. These are estimated at **£1.9m-3.4m per year**.¹⁰ This is estimated to be the initial level of savings from combining overheads, management and support infrastructure and eliminating overlaps. Further efficiency gains beyond those identified are possible, but will depend on how Citizens Advice implements this proposed change. We will be working closely with the relevant organisations to refine this estimate further during the consultation period.

Benefits of locally-gathered information

174. The presence of Citizens Advice on the high street will be an important part of delivering an advocacy service that is more directly relevant to consumers and more easily accessible. This will provide a direct link between national policy and local delivery and create a two-way dialogue between consumers and the national advocacy function. General consumer advocacy will be enhanced from real-time front-line information about what is causing concern to consumers, and what the priorities are for consumer advocacy. This locally-gathered information will enable a more grass-roots approach to developing evidence of consumer detriment and will strengthen the overall value and relevance of consumer representation through strong and accessible local delivery.

Widened access for vulnerable consumers in energy and postal sectors

175. As outlined above, Consumer Focus currently has statutory responsibilities to investigate complaints by designated vulnerable consumers in the energy and postal sectors, including those relating to disconnection of gas or electricity.¹¹ Under this option, access to this advocacy function would be widened due to the presence of Citizens Advice Bureaux on the high street, rather than having to submit complaints via telephone or online to Consumer Focus as is the case now.

¹⁰ This implies total funding for Consumer Focus will be reduced by between 13%- 23%

¹¹ 'Designated consumers' are those in specific sectors previously served by a sectoral consumer body; a 'vulnerable' consumer is one that could not reasonably be expected to pursue the complaint on their own behalf

Q14: Do you have any evidence that could help to refine the cost and benefit estimates above associated with this option?

Option 2: Transfer Consumer Focus general advocacy functions only to Citizens Advice

176. Under this option, Consumer Focus general advocacy functions will be lifted and shifted into the new Citizens Advice environment. Consumer Focus general advocacy functions which overlap with Citizens Advice advocacy functions would be stopped, allowing efficiency gains to be realised. Consumer Focus would continue to provide sectoral advocacy and remain a separate public body.

Costs

177. There will be one-off transition costs from transferring functions and powers from Consumer Focus to Citizens Advice. These costs (e.g. Citizens Advice reorganising and training current staff) will in the most part fall on Government and Citizens Advice.

Transition costs from transferring general advocacy functions from Consumer Focus to Citizens Advice

178. Some of Consumer Focus general advocacy functions which are stopped as a result of transferring general advocacy functions to Citizens Advice. This will result in redundancy costs, which have been estimated to be between £0.4m-0.8m given the volume of staff involved and their average cost and employment profile.¹² Recent analysis of Government re-organisations by the NAO suggests that redundancy costs are typically 17% of total transition costs, which would imply overall costs of **£2.4-4.7m**.¹³ Although this figure is based on estimates of redundancy costs only, further work is being undertaken to estimate other components of the likely overall transition costs (e.g. accommodation, IT, training).

Loss of expertise through loss of Consumer Focus staff

179. Consumer Focus has build up its expertise in general advocacy functions over the last couple of years and some of this expertise could be lost in the event of a transfer to Citizens Advice. If existing Consumer Focus general advocacy expertise were not imported into Citizens Advice at the time of transfer, it may take Citizens Advice some time to replace these skills in this area, which would be detrimental for consumers. However, this costs are likely to be lower compared to option 1, as Citizens Advice already have significant expertise particularly in general advocacy. In addition, this risk can be further mitigated if relevant staff from Consumer Focus are transferred to Citizens Advice.

Familiarisation costs associated with new landscape for consumers and businesses

180. Consumers rarely contact Consumer Focus for general advocacy work will need to familiarise themselves with the new landscape, therefore imposing some cost on them. However, Citizens Advice is already a very well-recognised source of information for consumers. In terms of telephone and online enquiries, consumers can simply be re-directed to the call entre / new site. The brand awareness of Citizens Advice is relatively high, so consumers should quickly become accustomed to knowing where to go. These costs are expected to be negligible.

Benefits

Efficiency savings

181. The cessation of some existing Consumer Focus advocacy functions will allow the eliminations of overlaps and deliver efficiency savings through economies of scale and scope – for example, from having a single central support team for general advocacy functions. These are estimated at **£0.7m-2.2m per year**¹⁴, which are lower than the efficiency savings which could be delivered under Option 1.

¹² The assumptions behind these costs estimates are sensitive to the parties involved in this transfer

¹³ http://www.nao.org.uk/publications/0910/reorganising_government.aspx

¹⁴ Consumer Focus funding will be reduced by £5.7 million. BIS estimates that the Citizens Advice will be able to delivery will be reduced by between 5%- 15%

Benefits of locally-gathered information

182. The presence of Citizens Advice Bureaux on the high street would be an important part of delivering a general advocacy service that is more directly relevant to consumers. This will provide a direct link between national policy and local delivery and create a two-way dialogue between consumers and the national advocacy function. General consumer advocacy will be enhanced from real-time front-line information about what is causing concern to consumers, and what the priorities are for consumer advocacy. This locally-gathered information will enable a more grass-roots approach to developing evidence of consumer detriment and will strengthen the overall value and relevance of consumer representation through strong and accessible local delivery.

Q15: Do you have any evidence that could help to refine the cost and benefit estimates above associated with this option?

Risks

Option 1

183. There is a risk that Citizens Advice and CAS may not have sufficient expertise to take on additional advocacy responsibilities particularly in respect of sector regulation. However, these organisations already have significant experience in general advocacy work and dealing extensively with consumers' problems on the ground at the local level, which has been used to inform advocacy at the national level covering a wide range of areas, including benefit reform, consumer credit and social housing¹⁵. In addition, the Citizens Advice Service will obtain the same budget as would have to be provided to Consumer Focus for sectoral advocacy, allowing it to recruit experience staff from CF and elsewhere.

184. Moreover, Citizens Advice and CAS clearly understand that these proposed changes will require them to expand and organise themselves differently to deliver these responsibilities. With that in mind, they have been discussing with Consumer Focus an agreed model for delivery of sectoral advocacy in the future. They have provided BIS with an initial assessment and are confident they have the necessary expertise to take on the additional responsibilities. BIS, Citizens Advice and CAS will be undertaking further work on this over the period of the consultation. Given the strong track record of both Citizens Advice and CAS in general advocacy and the proposals set out here to ensure that they have the necessary resources to take on this additional activity (potentially including staff from Consumer Focus) – the risks to delivery of consumer advocacy functions under Option 1 appear low.

185. As set out earlier, the overall estimate of likely transition costs associated with Option 1 is an extrapolation, with an implicit assumption that redundancy costs in this instance represent a similar proportion of total costs to the 'average' reorganisation considered by the NAO. There is a risk that if the redundancy costs in this instance are not proportionately similar, the transition costs will be inaccurate. Therefore, this assumption has been subjected to sensitivity analysis – varying the assumption on redundancy costs being between 10% and 25% of the total transition costs, changes the overall costs to £2.6m-6.5m and £4.6m-11.5m respectively.¹⁶

Option 2

186. Under this option, the expertise in general advocacy built up by Consumer Focus over the last couple of years could be lost in the event of a transfer to Citizens Advice. If existing Consumer Focus general advocacy expertise were not imported into Citizens Advice at the time of transfer, it may take Citizens Advice some time to replace these skills in this area, which could be detrimental for consumers. This risk is, however, likely to be lower compared to Option 1, as Citizens Advice already have significant expertise within this area. In addition, this risk can be further mitigated if relevant staff from Consumer Focus are transferred to Citizens Advice.

¹⁵ http://www.citizensadvice.org.uk/index/policy/policy_publications.htm

¹⁶ The lower (upper bound) estimate has assumed redundancy costs are £0.6m (£1.2m) and that redundancy costs represents 25% (10%) of the total transition costs. The figures reported here are subject to rounding.

Summary

187. In the Government's view, there is scope for significant streamlining of the bodies involved in consumer advocacy to provide a more effective use of public funding, as well as an opportunity to strengthen the link to local issues that consumers care most about. Currently two organisations (Citizens Advice and Consumer Focus) support their advocacy roles in different ways to ensure they reflect consumers' interests. Whilst the work of Consumer Focus is supported by research such as surveys and opinion polls to gain a clearer understanding of the issues affecting consumers, Citizens Advice is able to augment its own research with feedback about consumers' experiences via its network of local bureaux and extensive case management system.
188. Two different approaches were considered in detail – the transfer some powers and functions from Consumer Focus to Citizens Advice (Option 1), and the transfer of Consumer Focus general advocacy functions to Citizens Advice, with sectoral advocacy functions remaining with Consumer Focus (Option 2). . Three further options were considered – transferring Citizens Advice general advocacy funding to Consumer Focus; abolishing Consumer Focus entirely, and promoting closer co-operation between existing bodies. Although the first of these further options would maximise savings to the Exchequer and may simplify the consumer landscape considerably, consumer protection would be unacceptably diminished. The second would not simplify the consumer landscape and efficiency savings would likely be limited. The third further option of closer co-operation would not achieve the objective of simplifying the landscape for consumers; nor would it secure the full efficiency savings from reducing the number of organisation, as there would still be separate IT systems, Boards and Chief Executives for the two organisations.
189. In relation to the two detailed options for reform, Option 2 would not reduce the complexity of the consumer landscape and efficiency savings to Government would not be maximised. The Government believes that Option 1 will enhance the link to local consumers and will help ensure that national bodies tackle the real issues affecting consumers, while strengthening the frontline of consumer empowerment and protection. In addition, this should also help to contribute to the objective of reducing complexity in the consumer landscape.

Title: Consumer Landscape Review: Transfer of consumer enforcement powers Lead department or agency: Department for Business, Innovation & Skills Other departments or agencies: Office of Fair Trading	Impact Assessment (IA)
	IA No: BIS0267
	Date: May 2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
Contact for enquiries: Philip O'Donnell (0207 215 6764) Anthony Morris (0207 215 5670)	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Robust enforcement of consumer law helps to eliminate rogue traders while rewarding fair-dealing businesses by reinforcing consumer confidence in markets, which helps to increase levels of innovation, productivity and ultimately growth. While the UK's consumer protection regime compares well with other countries, there is a complex landscape of legislation and institutions. A recent report by UEA identified uneven enforcement as a key weakness of the UK regime. There is therefore scope to reduce this complexity, simplify compliance for business and improve protection for all consumers, while raising the efficiency in the use of government financial resources through reform of the current institutional framework.

What are the policy objectives and the intended effects?

The Government's ambition is to create a world-class consumer enforcement regime that protects consumers, responds to firms breaking the law and places a proportionate regulatory burden on business. Increasing consumer and business clarity and their confidence in markets can make a significant contribution to the Government's growth objectives. The reforms are intended to fulfil these objectives by putting more resources into the Local Authority Trading Standards Services (LATSS), improving national leadership and co-ordination of trading standards activities, and helping to reduce the 'enforcement gap' – i.e. cases which cross local authority boundaries and risk not being picked up by LATSS, but are not deemed a priority for enforcement action by the OFT.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following options have been analysed, relative to a 'do nothing' option (i.e. the OFT, or its proposed successor body the single CMA, retaining the full suite of current OFT consumer enforcement powers):

- Option 1: Most OFT enforcement functions transferred to LATSS, some powers retained by OFT;
- Option 2: All OFT consumer enforcement functions (and associated funds) are transferred to LATSS;
- Option 3: A single organisation (either the OFT or a newly-created national enforcement body) takes responsibility for all enforcement against threats which cross local authorities' boundaries

Option 1 is the preferred option, as it mitigates the risk associated with loss of OFT expertise under Option 2, maintains the value of local authority enforcement expertise (unlike Option 3), whilst providing sufficient resource for LATSS co-ordination of national enforcement. It also preserves the important crossovers between competition and consumer policy in those cases where breaches of consumer law are systemic and related to structural market failures.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 4/2018

What is the basis for this review? Duty to review. **If applicable, set sunset clause date:** N/A

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes
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Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 08/06/2011

Summary: Analysis and Evidence

Policy Option 1

Description: Most OFT consumer enforcement functions are moved to LATSS, with limited powers retained by OFT (or its proposed successor body, the single CMA)

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.1	High: -4.6	Best Estimate: -4.9

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	4.7	0	4.6
High	5.2	0	5.1
Best Estimate	5.0	0	4.9

Description and scale of key monetised costs by 'main affected groups'

One-off redundancy costs for OFT resulting from moving resources from OFT to Trading Standards (£4.6m-5.1m); one-off costs associated with expanding the role for Trading Standards Policy Board, including training and recruitment costs (£0.1m); ongoing costs of securing necessary external legal and/or economic expertise for enforcement cases (estimated to be up to £2m per year) will be met from existing funding, the majority of which will be transferred to LATSS under this option.

Other key non-monetised costs by 'main affected groups'

Loss of expertise among OFT staff in dealing with large-scale national enforcement cases; loss of deterrence effect associated with potential OFT enforcement; ongoing costs of setting up and maintaining national enforcement units within the LATSS network; familiarisation costs for businesses and consumers in relation to new institutional landscape (though these are likely to be negligible)

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

Although we do not yet have sufficient evidence to robustly quantify the benefits, we are working towards providing these in the final IA. Further detail on the sources of these benefits is provided below.

Other key non-monetised benefits by 'main affected groups'

These proposals have been designed to make enforcement more effective, thereby addressing both weaknesses in the consistency of enforcement (identified through independent reports on the UK's consumer empowerment regime) and concerns around the emergence of an 'enforcement gap'. The analysis section below provides evidence that the direct payback on enforcement activity is between 3:1 and 6:1, absent any deterrence effects (which could be substantial). From discussions with stakeholders such as Trading Standards, we consider it is highly likely that the benefits associated with reform will significantly exceed the costs estimated above. Improved leadership and co-ordination among LATSS should lead to increased consistency of enforcement; there should also be reduced burdens on business associated with inconsistent enforcement approaches; finally, there should be more efficient use of limited public resources in support of consumer enforcement.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
Potential displacement of existing funding for local LATSS from increased provision by central Government; risk that larger cross-boundary enforcement cases are not undertaken due to lack of co-ordination among LATSS (but likely to be minimised under proposals for new role of Trading Standards Policy Board (TSPB) set out in this option); overall consumer detriment may increase or decrease, depending on how overall funding for consumer enforcement (which predominantly comes from local authorities) changes and on the success of TSPB in improving efficiency with which this funding is spent on effective enforcement.		

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Summary: Analysis and Evidence

Policy Option 2

Description: All current consumer enforcement functions of the OFT (and associated funds) are moved to LATSS

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.7	High: -5.7	Best Estimate: -5.7

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	5.8	0	5.7
High	5.8	0	5.7
Best Estimate	5.8	0	5.7

Description and scale of key monetised costs by 'main affected groups'

One-off redundancy costs for OFT resulting from moving resources from OFT to Trading Standards (£5.7m); one-off costs associated with expanding the role for Trading Standards Policy Board, including training and recruitment costs (£0.1m); ongoing costs of securing necessary external legal and/or economic expertise for enforcement cases (estimated to be up to £2m per year) will be met from existing funding transferred to LATSS.

Other key non-monetised costs by 'main affected groups'

Loss of expertise among OFT staff in dealing with large-scale national enforcement cases (greater than under Option 1); loss of benefits of integration between consumer and competition policy; loss of potential deterrence effect associated with OFT enforcement; costs of securing necessary external legal and/or economic expertise for enforcement cases; familiarisation costs for businesses and consumers in relation to new institutional landscape (though these are likely to be negligible)

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

More efficient use of limited public resources in support of consumer enforcement; benefits of improved leadership and co-ordination among LATSS for efficiency of public spending; reduced burdens on business from inconsistent enforcement approaches

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Similarly to Option 1, greater potential displacement of existing funding for local LATSS from increased provision by central Government; risk that larger cross-boundary enforcement cases are not undertaken due to lack of co-ordination among LATSS especially that Trading Standards will lack the capabilities to analyse complex markets to identify consumer law breaches; risk of loss of co-ordination between competition and consumer law; overall consumer detriment may increase or decrease, depending on how overall funding for consumer enforcement (which predominantly comes from local authorities) changes and on the efficiency with which this TSPB can deliver effective enforcement.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Summary: Analysis and Evidence

Policy Option 3

Description: Responsibility for all supra-local consumer enforcement rests with a single organisation, either the OFT (or its proposed successor body, the single CMA) or a newly-created national consumer enforcement authority

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -11.3	High: -3.4	Best Estimate: -7.4

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	3.5	0	3.4
High	11.5	0	11.3
Best Estimate	7.5	0	7.4

Description and scale of key monetised costs by 'main affected groups'

One-off costs of establishing network of sub-national enforcement teams, based on estimates of setting up similar teams for Scambusters and Illegal Money Lending (£3.5m-6.5m); ongoing costs of securing necessary external legal and/or economic expertise for enforcement cases (estimated to be up to £2m per year) will be met from existing funding; if required, one-off costs associated with establishing a new national consumer enforcement body (up to £5m)

Other key non-monetised costs by 'main affected groups'

If a new body is created: potential loss of expertise among OFT staff in national enforcement cases (depending on transfer of existing staff to new body); loss of potential deterrence effect associated with OFT enforcement; loss of benefits of integration between consumer and competition policy; familiarisation costs for businesses and consumers (though likely to be negligible)

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

Improvements in co-ordination and consistency of enforcement, as all supra-local enforcement would be controlled by a single organisation; potential efficiency gain through integration of supra-local enforcement decisions within a single organisation (rather than collection of LATSS, as currently) and optimal geographic distribution of enforcement centres

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

Risk of enforcement gap shifting towards smaller cross-boundary enforcement threats that a national agency may find it harder to pick up; if no additional funding can be identified within current local government grants, establishing an enforcement body to take responsibility for all supra-local threats with sufficient scale and regional reach could be impossible to achieve; overall consumer detriment may increase or decrease, depending on how overall funding for consumer enforcement (which predominantly comes from local authorities) changes and on the efficiency with which this funding is spent on effective enforcement. A further risk that such a significant consumer enforcement role for OFT (or its proposed successor body, the single CMA) would detract from its competition-focused priorities.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	United Kingdom				
From what date will the policy be implemented?	April 2013				
Which organisation(s) will enforce the policy?	Trading Standards, OFT				
What is the annual change in enforcement cost (£m)?	0				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 0		Benefits: 0		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	81
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	82
Small firms Small Firms Impact Test guidance	No	82
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	82
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	82
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	82
Human rights Human Rights Impact Test guidance	No	82
Justice system Justice Impact Test guidance	No	82
Rural proofing Rural Proofing Impact Test guidance	No	82
Sustainable development Sustainable Development Impact Test guidance	No	82

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
17	Public Bodies Bill announcement: http://services.parliament.uk/bills/2010-11/publicbodieshl.html
18	Hampton Review (2005): http://www.berr.gov.uk/files/file22988.pdf
19	
20	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	2.5	2.5	-	-	-	-	-	-	-	-
Annual recurring cost	-	-	-	-	-	-	-	-	-	-
Total annual costs	2.5	2.5	-	-	-	-	-	-	-	-
Transition benefits	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	-	-	-	-	-	-	-	-	-	-
Total annual benefits	-	-	-	-	-	-	-	-	-	-

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Introduction

190. Even when consumers are fully empowered to exercise choice, there will still be risks from businesses who do not comply with the law. Notwithstanding the potential harm and unfairness in individual transactions, there is a wider concern that confidence in markets would be lost if non-compliance with the law, or illegal behaviour to frustrate transparency became commonplace. Effective enforcement of consumer law is an essential component in an effective consumer landscape. In many cases, a targeted approach to compliance, closely linked to the threat of enforcement action, may be appropriate. Enforcement action itself may still be necessary for those who choose to flout the rules, or who disempower consumers by misleading them or treating them unfairly and make no attempt to change. In particular, this includes rogue traders and other scam operators who are often criminal enterprises.
191. A recent report by the OFT found evidence of widespread consumer detriment amongst UK consumers – around one-third of consumers reported at least one problem in the last 12 months with goods or services they had purchased, with almost half of these reporting multiple problems.¹ In total, the OFT estimated that consumers experienced over 25 million problems per year with goods and services, leading to a total value of consumer detriment exceeding £6.6 billion. In 2009, Consumer Focus estimated that the annual consumer detriment in Great Britain associated from unfair commercial practices alone was £3.3 billion.² A more recent survey by the European commission found that 8% of consumers reported having a problem with a good or service recently purchased.³
192. Responsibility for enforcing the bulk of consumer law in the UK is shared between the Office of Fair Trading (OFT) and LATSS. Local enforcement is undertaken by Local Authority Trading Standards Services (LATSS), with the OFT generally taking on large or complex enforcement cases with a strong national dimension. Although individual LATSS collaborate to address threats which go beyond local boundaries, the financial risks associated with taking on such cases can be considerable – for example, a judgement in a recent case resulted in an individual Trading Standards Service being ordered to pay £4m in legal costs. Further, the current system for referring cases between LATSS and the OFT does not appear to be working well – for example, 41% of respondents to an NAO survey of LATSS felt that the referral system between LATSS and the OFT was not effective and the OFT has only chosen to take on 2 of the 15 enforcement cases referred by LATSS over the last two years.⁴ This leads to an ‘enforcement gap’, with LATSS focusing more on small-scale local threats and with regional and many national threats inadequately addressed.
193. This impact assessment addresses proposed changes to the consumer landscape enforcement institutions, designed to address this ‘enforcement gap’, which should reduce the consumer detriment identified above. The Government’s preferred option is to transfer most of the OFT’s current consumer enforcement functions to Trading Standards, with limited powers retained by OFT or its proposed successor body, the single Competition & Markets Authority (Option 2), whilst developing mechanisms within Trading Standards to provide the leadership and co-ordination of enforcement activity against national and cross-boundary threats. Trading Standards are established within local authorities and provide the vast majority of on-the-ground enforcement of consumer law, as well as undertaking local education initiatives. This often will therefore help achieve the objective of strengthening the front line of consumer empowerment and protection, without the risks to enforcement that are associated with removing all of the OFT’s consumer enforcement powers, as under Option 1.

¹ ‘Consumer detriment’, OFT (2008)

² ‘Waiting to be heard’, Consumer Focus (2009)

³ ‘The Consumer Markets Scoreboard: 4th Edition’, European Commission (2010), available at: http://ec.europa.eu/consumers/strategy/docs/4th_edition_scoreboard_en.pdf

⁴ ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office (forthcoming)

Background

194. As mentioned earlier, while the UK's consumer protection regime compares well with other countries in terms of the levels of protection currently enjoyed by consumers⁵, there is undoubtedly a complex landscape of legislation, policy and enforcement bodies. A report in 2008 by the University of East Anglia to benchmark the UK's consumer empowerment regime found that the UK regime fared well overall but identified uneven enforcement as a key weakness, alongside overly-complex legislation.⁶
195. Currently, consumer law enforcement is shared between Local Authority Trading Standards services (LATSS) and the Office of Fair Trading (OFT). In broad terms, LATSS are responsible for dealing with most threats to the fair trading environment and the OFT takes on a small number of ground-breaking cases⁷, issues guidance, develops enforcement policy and, with specific funding from the Department for Business, Innovation and Skills (BIS), runs a specialist internet enforcement centre. BIS spent £9.5m in 2010/2011 to support the enforcement effort, mainly through funding regional 'Scambuster' and Illegal Money Lending teams. The budgets supporting all this activity are under pressure, given the public sector spending constraints.
196. LATSS and OFT have developed different areas of legal expertise. The OFT takes mainly civil cases, whereas LATSS mainly act through the criminal law, though a number of civil cases have also been brought in recent years and options are being considered to increase their use of civil procedures as well. OFT take a good proportion of the cases under unfair contract terms, estate agency and distance selling legislation, whereas LATSS bring most of the cases under weights and measures and product safety legislation and against unfair commercial practices. Increasingly, OFT consumer enforcement action is linked to its market studies work. Apart from the BIS-funded internet enforcement centre, OFT has tended in recent years to reduce the number of consumer enforcement cases year-on-year.⁸
197. In the context of pressure on local authority trading standards teams, the Government believes that enforcement against larger scale rogue traders and scams needs to be stepped up. Evidence collected by the OFT previously estimated that 3.2 million people fall victim to scams every year, with associated total losses of £3.5 billion.⁹ More recent survey evidence indicates that scams remain a major problem, with nearly 1 in 20 households falling victim to a scam in 2010 and two-fifths of victims not reporting this to the authorities.¹⁰ Similarly, evidence indicates that rogue trading is a significant source of consumer detriment, with Consumer Direct receiving over 5,300 complaints about rogue doorstep traders in 2009 – a 16% annual increase.¹¹

The current enforcement landscape

Local

198. The vast majority of consumer enforcement is undertaken by LATSS, which are provided and funded by local authorities. In total there are 204 LATSS. In some parts of England as well as in Scotland and Wales, LATSS services are in unitary or metropolitan authorities along with other regulatory services (in particular Environmental Health). In other parts of England, where there is a two-tier local authority structure with responsibility divided between county and district authorities, Trading Standards services are provided at county level (although in some cases, districts perform certain functions such as control of doorstep selling). There are 27 two-tier counties and 123 single-tier authorities in England, 32 unitary authorities in Scotland and 22 in Wales.
199. LATSS functions include: fair trading (the key area for enforcement of consumer law), animal health and welfare, product safety, weights and measures, underage sales, food standards,

⁵ European Commission (2010). The Consumer Markets Scoreboard 3rd Edition (http://ec.europa.eu/consumers/strategy/docs/3rd_edition_scoreboard_en.pdf?reload)

⁶ BERR (2008). Benchmarking the performance of the UK framework supporting consumer empowerment through comparison against relevant international comparator countries (<http://www.bis.gov.uk/files/file50027.pdf>)

⁷ Such as the recent test case on unauthorised overdraft charges

⁸ For example, evidence indicates that the number of complaints/enquiries under the Consumer Protection Regulations decreased by 93% between 2004/5 and 2007/8

⁹ 'Research on impact of mass marketed scams', OFT (2006)

¹⁰ source: <http://www.offt.gov.uk/news-and-updates/press/2011/09-11>

¹¹ source: <http://www.offt.gov.uk/news-and-updates/press/2010/82-10>

consumer credit, petroleum licensing, poisons, e-commerce, and explosives.¹² In undertaking their work, they liaise or work directly with a number of other enforcers, including the OFT, local environmental health services¹³ and the Health and Safety Executive. In some cases, this enforcement work may already reflect national priorities, but where enforcement work is most effective at a local level. The Local Better Regulation Office (LBRO) has been co-ordinating work on national priorities for local enforcement.¹⁴ In practice, LATSS in the 'fair trading' area undertake a mixture of:

- Reactive enforcement work, such as responding to complaints;
- Proactive, intelligence-led enforcement and compliance work, such as investigative work, information analysis, visiting business premises, and
- Compliance and education work, such as advice to consumers and business, visits to local fora such as schools.

200. Reactive enforcement is normally seen as core business, but proactive, intelligence-driven enforcement, often identified through collaboration with other enforcement agencies, is also an important element of an advanced LATSS operation.
201. Many LATSS act as a "home authority", where they provide a single point of contact for advice for large companies that have their headquarters in their authority area. This benefits the companies concerned, and reduces duplication by co-ordinating in one place information and intelligence about a particular company. In 2009, building on the foundations of these voluntary agreements, the Primary Authority scheme administered by the LBRO was introduced in England and Wales to co-ordinate inspection and enforcement activity for participant businesses that trade across local authority boundaries. These new arrangements enable local authorities to recover the costs of providing advice services to businesses and for the costs associated in co-ordinating local regulatory activity.
202. Primary Authority arrangements are now in place for a significant number of high street businesses. Where these arrangements are in place, local authorities must have regard to inspection plans and consult the primary authority prior to pursuing enforcement action. However, although Primary Authority is becoming more common and BIS expects it to grow substantially in future, many companies have not yet established Primary Authority relationships.
203. The Trading Standards Institute (TSI), the professional body for Trading Standards professionals, and the OFT published a Workforce Survey in June 2010, which estimated that the total budget for all LATSS operations throughout the country was approximately £213m in 2009/10.¹⁵ In the current financial year, the figure is probably somewhat lower and over the spending review period 2011-2014 it is expected to decline by a further 20-30%. This decline may not be uniform, with some authorities, regions or countries seeing less reduction in service and some more.¹⁶ On this basis, BIS estimates that the total amount spent by local authorities on Trading Standards work could fall to £140m-£170m by 2014. Of course, this amount is spread across all LATSS functions. Estimates vary, but fair trading work probably accounts for something less than half of this.
204. In terms of LATSS performance and co-ordination, local authorities have had access to the services provided by the Local Government Group, in particular Local Government Regulation (LGR; formerly LACORS). LGR has been responsible for providing specialist advice and guidance; promoting good practice; influencing and lobbying on behalf of local government, and leading and partnering initiatives to enhance the reputation of regulatory services. It has provided secretariat support and organised the Trading Standards Policy Forum (TSPF). The TSPF comprises Heads of

¹² They can also include certain aspects of road traffic law, doorstep lending and street trading

¹³ In single-tier authorities, trading standards and environmental health services are provided by the same authority, and common practice has been to join them together into generic regulatory services divisions

¹⁴ One of LBRO's statutory responsibilities is to manage the national enforcement priorities for England and the separate priorities that exist in Wales. LBRO are currently refreshing the list in respect of England. Following a formal consultation process undertaken by the Welsh Assembly Government, the first national enforcement priorities for Wales were prepared by LBRO and published in July 2010. More information can be found at www.lbro.org.uk/resources/integration-with-local-and-national-priorities.htm. It has been announced that the LBRO in its current form should be abolished, but that its most important functions will be transferred to the Department for Business, Innovation and Skills. These will be performed by a new organisation within the Department, drawing on the expertise of LBRO's staff and work to date. There will be a consultation on plans in Spring 2011.

¹⁵ www.tradingstandards.gov.uk/policy/policy-pressitem.cfm/newsid/479

¹⁶ For example, Scottish Local Authorities are facing different funding cuts from the English authorities and this may not lead to such significant cuts.

Service elected by each region/country, plus representatives from the Association of Chief Trading Standards Officers (ACTSO) and TSI. It helps LGR to:

- propose priorities on trading standards matters including enforcement and consumer education and advice affecting the English regions and Devolved Administrations;
- challenge, support and advise relevant government and government-supported agencies, and
- promote continuous improvement and best practice in delivering LATSS.

205. The Government understands that the Local Government Group is intending to rationalise its structure. As part of this process, the individual organisations that form the Group (including LGR) will form a single delivery structure, the LG Group, with significant reductions in most service areas including support to regulatory services. It is likely it will continue to support the TSPF in some way. LGA has no locus in Scotland. The Welsh Local Government Association representing the 22 local authorities in Wales works closely with the LGA.

Regional

206. Many companies that are targets of enforcement action engage in activities outside their local authority area but most individual authorities still invest the time to pursue them, knowing that their citizens will also benefit from the enforcement actions of other authorities. LATSS also participate in regional co-ordination networks to share best practice and ensure consistency of enforcement across a region. Most regions have a shared regional intelligence function which helps co-ordinate activity. Many Trading Standards officers have commented on how valuable this shared intelligence is. Within these networks, some LATSS have specialist teams who serve or assist other authorities beside their own. Such activities depend on reciprocal effort from all local authorities, which they generally give freely and fairly. LATSS thus act as a responsible network and collectively aim for a seamless service.

207. Determined rogue traders are harder to catch and prosecute than businesses that are generally compliant but which might have been tempted into a sharp practice or which have fallible systems for ensuring compliance. The more resources that are needed to tackle a particular rogue business and the weaker its connection with an individual authority area, the more difficult it is for an individual LATSS to justify pursuing an investigation and, if necessary, prosecuting an offence when the ultimate benefit may be primarily to the region or country as a whole. Some rogue traders rely on this to evade enforcement action, only operating outside the area where they are located.

208. BIS funding is therefore targeted at gaps in enforcement action that may occur at national and regional levels and encouraging local authorities to invest resources in activities with wider benefit. This funding is designed to support capacity-building in a bottom-up way – incentivising LATSS to come together to build the necessary capacity through collaboration between local authorities. This is done via:

- **Scambuster teams (BIS funding in 2011/12 = £3.2m):** These are specialist LATSS teams that target the worst rogue trading practices and raise awareness by alerting consumers in their area who may be targeted by a particular activity.
- **Illegal Money Lending teams (BIS funding in 2011/12 = £5.2m):** These tackle loan sharks and other sources of illegal credit, backing this work up with awareness campaigns and links to financial support services. From 2011 the teams will be based around a new structure of three national teams.
- **Internet Enforcement teams (BIS funding in 2010/11 = £1.35m):** A specialist OFT enforcement unit and a Trading Standards virtual centre to train staff, as well as funding for test purchasing and to purchase stand alone equipment were established in 2009. BIS provides funding to enable enforcers to work with the police and other enforcers to tackle more complex on-line breaches of consumer law such as misleading information or price comparisons and also to tackle online crimes such as ticketing scams and bogus websites that, by their nature, operate across local authority boundaries.
- **Ports funding (BIS funding in 2010/11 = £0.15m):** This is aimed at product safety sampling and testing by local authorities at ports to remove sub-standard and dangerous products from the supply chain as they enter the UK and before they reach the shops.
- **'Fighting fund' for regional and national threats (BIS funding in 2010/11 = £0.25m):** Taking large cases to court can lead to high up-front costs for LATSS. BIS has therefore dedicated

money to a fighting fund to allow authorities to take action in cases of regional or national significance which they would otherwise struggle to afford.

209. BIS is conscious that its financial interventions so far, important though they are, can only affect a part of the enforcement landscape. Well over 80 per cent of enforcement funding is still probably provided to local enforcement teams through local authority budgets.

National & international

210. In the current landscape, the OFT undertakes national consumer enforcement action against a range of priorities as set out in the OFT's prioritisation principles.¹⁷ In determining the high level focus for the OFT, it must consult in draft and publishes them in an annual plan. The OFT's draft Annual Plan for 2011 indicates that OFT intends to address "the most serious national consumer problems, maximising the deterrent effect of our actions and taking precedent-setting cases".¹⁸

211. The OFT's responsibilities cover both competition and consumer law and it has been internationally recognised as a leader in these fields. Its key tools for consumer protection include:

- the power to bring enforcement action for breach of a wide range of consumer law (the OFT has published detailed guidance on this enforcement action¹⁹),
- regulation of estate agents,
- credit licensing²⁰,
- providing guidance and advice on consumer rights, and
- approval of codes of practice.

212. The OFT's enforcement activities range from a small number of formal enforcement actions (mainly injunctive actions in the higher courts rather than prosecutions), to more informal pressure on individual businesses to stop non-compliant behaviour, to compliance-oriented communications to businesses in general about consumer law (for example by producing detailed guidance on how to comply with new legislation). The OFT acts as the principal source of detailed guidance on the law relevant to enforcement action against unfair contract terms and unfair commercial practices, drawing on its experience of working with government on legislation and taking enforcement action in the higher courts.

213. The OFT is also the UK's Single Liaison Office and national Competent Authority for the purposes of EU enforcement cooperation, dealing with cases referred from other EU Member States and, where necessary, taking enforcement action abroad. It pursues international collaboration to secure effective action against overseas traders who are causing consumer detriment in the UK.

214. In terms of enforcement action, the OFT has tended to use civil rather than criminal powers, which are most appropriate to deal with unfair contract terms and other matters which are not subject to the criminal law. These cases have primarily been undertaken by the OFT and national regulators rather than by local authorities.

215. In the financial year 2011-12, the OFT's total budget (excluding self-financing activity) is £59.8m. This budget is made up of front-line resource supported by various administration and support groups, including dedicated legal and economics groups as well as economists and specialists in competition and consumer law embedded in front line teams. There are also groups which also undertake the OFT's international liaison role and policy-influencing roles.

216. OFT budgets are not broken down between consumer and competition activities, but BIS and OFT estimate that, excluding Consumer Direct, the "incremental" costs of its consumer activities in 2011/2012 might be in the order of £12m-13m. This is the amount that might be transferred out of OFT if **all** such activities were to stop and if fixed costs such as accommodation and leadership proved to be irreducible in such a case. However, in practice the Government envisages the retention of some (more limited) consumer enforcement roles (see below) and – in the event of the

¹⁷ http://www.of.gov.uk/shared_of/about_of/oft953.pdf

¹⁸ http://www.of.gov.uk/shared_of/consultations/oft1294con.pdf

¹⁹ Enforcement of consumer protection legislation, Guidance on Part 8 of the Enterprise Act: http://www.of.gov.uk/shared_of/business_leaflets/enterprise_act/oft512.pdf

²⁰ The Government is currently consultation on reforming the consumer credit regime

<http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/n/10-1160-new-approach-consultation-reforming-consumer-credit>

Competition Commission and the OFT being merged – fixed costs would need to be looked at carefully.

217. Separately from the OFT, consumer enforcement in the regulated sectors is performed by the respective regulator for that sector. Consumer enforcement in this area may cover issues under general consumer law²¹ but may also require sector-specific legislation.

Devolved issues

218. In respect of England, BIS has worked very closely with the Local Government Group – in particular LGR but also the LGA – as well as with TSI and the Association of Chief Trading Standards Officers (ACTSO)²² to prepare a potential model for consultation. In Wales, BIS has consulted with the Welsh Assembly Government, the Welsh Local Government Association²³ and Wales Heads of Trading Standards (WHoTS). These stakeholders have been supportive of the intention behind the proposed changes while recognising their magnitude and the new challenges, most particularly in securing an appropriate Welsh voice in the new arrangements, but also the opportunities that they will bring.
219. In Scotland, local authority delivery outcomes are agreed with the Scottish Government through an umbrella Concordat with the Convention for Scottish Local Authorities (COSLA) and Single Outcome Agreements with individual local authorities. However, the Scottish Government has no remit to develop or enforce consumer policy because this is a reserved policy area (although BIS has been working closely with them and also with the representative body for Trading Standards officers, the Society of Chief Officers of Trading Standards in Scotland; SCOTSS).
220. In Northern Ireland, consumer policy is devolved and enforcement work is performed by the Department of Enterprise, Trade and Investment (DETI), part of the Northern Irish Executive, rather than by local authorities. However, in the past they have worked very closely with the OFT on large cases (reflecting the OFT's status as a national enforcer) and with LATSS in Great Britain and this close co-operation needs to be maintained.

Issue

221. Consumer enforcement activity must be sustained at a certain minimum level across the entire country for it to have a credible overall impact and prevent 'gaming'. Consumers and businesses increasingly trade across a wide geographic area. Residents of one local authority could suffer in the event of inadequate enforcement of compliance work by Trading Standards service in another area. Additionally, 'gaming' may occur if areas where enforcement is weaker attract rogue businesses, which then draws further on limited resource, creating a vicious cycle.
222. Therefore, enforcers must be able to work collectively and have efficient mechanisms for targeting regional and national threats, as well as local ones. Recent evidence collected by the National Audit Office indicates that the costs associated with detriment-causing activities that cannot be dealt with at the local level amount to £4.8 billion per year.²⁴ This means that locally-funded LATSS officers in any given local authority will inevitably spend some of their time serving the interests of citizens living in other places, whilst citizens in that local authority will benefit in turn from the enforcement efforts of others.

²¹ The regulators with concurrent consumer enforcement powers (as designated enforcers under Part 8 of the Enterprise Act) are Ofcom, Ofgem (and Northern Irish counterparts), Ofwat, the Financial Services Authority, the Office of the Rail Regulator, the Civil Aviation Authority and the Information Commissioner's Office. Additionally, CAA, FSA, Ofcom, the Secretary of State for Health (and Northern Irish equivalent) and Independent Committee for the Supervision of Standards of the Telephone Information Services are also designated enforcers for the purposes of the Consumer Protection Co-operation regulations

²² ACTSO, SCOTSS and WHoTS represent Chief Trading Standards Officers in England, Scotland and Wales respectively. ACTSO and SCOTSS are Sections of the Trading Standards Institute.

²³ The Welsh Local Government Association is autonomous in all matters in terms of devolved local government policy in Wales, but works closely with the Local Government Group. In terms of this constitutional settlement the WLGA is seen as an essential part of the Welsh policy environment with its position recognised in the Government of Wales Act 2006 and with a stronger influence over the Welsh political system than the LGA.

²⁴ Comprising £3.5 billion in mass market scam and £1.3 billion in Intellectual Property Crime; source: 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

223. However, evidence from representatives from the LATSS network supported by statistics from the Chartered Institute of Public Finance and Accountability (CIPFA)²⁵ indicates that resources for enforcing consumer law are limited, with several local authorities having fewer than 10 LATSS officers. The Government is concerned that very small, stand-alone Trading Standards services appear to have difficulty fulfilling statutory obligations, let alone other useful services such as second-tier advice, support for compliance, consumer education or enforcement work in bigger, resource-intensive cases.²⁶ This creates the potential for an ‘enforcement gap’.
224. This concern is supported by the results of a review of Trading Standards in Scotland by Consumer Focus Scotland.²⁷ The review found a lack of consistency in the services offered to consumers and to businesses with no effective national system in place to measure the effectiveness of the service and that resources to support trading standards services differed enormously across Scotland’s 32 councils. Although the review was limited to Scotland, similar issues may be prevalent in the rest of the UK.
225. Further evidence recently collected by the National Audit Office also supports this. The only statutory requirement for LATSS is the employment of a single weights and measures officer. The smallest service has 2.5 staff, with the largest having over 80 and resourcing varies from £240,000 to over £6 million annually. There is one Trading Standards officer for every 36,000 people in the West Midlands, but only one for every 70,000 people in London. There is also wide variation in the status of the head of service, with around a third being relatively junior positions, in the fifth or sixth tier of local authority management²⁸.
226. Given the budgetary pressures currently facing LATSS, there is a threat that more and more local Councils will no longer be able or willing to prioritise larger, cross-boundary cases. The OFT, itself under financial pressure and prioritising work arising out of its own market studies, is not well-placed to fill this gap, especially in respect of the action against larger-scale rogue traders, which is one of the Government’s priorities. It is therefore essential to identify the most effective mechanism for maximising enforcement action with the available budget.
227. The proposed reduction in co-ordination of LATSS work arising out of the proposed abolition of LGR and the reduction in resources allocated to regulatory services within the Local Government Group accentuates this threat. Mechanisms to co-ordinate activity and sustain the self-interest and collective confidence in an effective system undertaking cross-boundary enforcement work must be maintained.
228. Current mechanisms for co-ordination between LATSS and the OFT do not appear to be working well – for example, the OFT has only been able to take enforcement action on 2 of the 15 cases referred on by LATSS over the last two years. In addition, 41% of respondents to an NAO survey of LATSS felt that the referral system between LATSS and the OFT was not effective²⁹.
229. This creates the opportunity for a new mechanism that can deliver the limited available resource towards this front line, to enable the LATSS network to continue to bring more cross-boundary cases and to ensure a consistent standard of enforcement across the country.

Rationale

230. Enforcement of consumer law is an important part of developing and sustaining competitive markets and there is evidence that consumers are already suffering costly problems with the purchase of goods and/or services. This implies that there is scope for improvement in enforcement of consumer law, to reduce the number of problems experienced by consumers and their severity.
231. Government budgetary pressures at both a national and local level combined with the risk of a widening ‘enforcement gap’ identified above, make it imperative that government maximise the efficiency of resource use within the current consumer enforcement regime.
232. As set out above, there are likely to be ‘spillovers’ (i.e. positive externalities) in enforcement where action is required to deal with regional or national threats by traders that operate beyond local

²⁵ <http://www.cipfa.org.uk>

²⁶ For example, a judgement in a recent case resulted in an individual Trading Standards Service being ordered to pay £4m in legal costs

²⁷ www.consumerfocus.org.uk/assets/3/files/2009/10/CFS-Up-to-Standard.pdf

²⁸ ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office (forthcoming)

²⁹ ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office (forthcoming)

authority boundaries. This means that locally-funded Trading Standards officers will inevitably spend some of their time serving the interests of citizens living in other places. There is therefore a risk that local authorities may 'free ride' on the efforts of others, potentially leading to the creation of havens for rogue traders and undermining the overall enforcement network from which all benefit.

233. As a great proportion of funding for enforcement (over 80%) is controlled by local authorities, incentives and responsibilities for cross-boundary working are weaker. A survey of LATSS conducted by NAO found that 'national objectives' was only cited as an influence on LATSS workloads by 9% of respondents. There can be strong cost and risk disincentives, especially for small LATSS, to taking on large complex cases. The level of resource required to investigate and prosecute cases involving cross-boundary or national issues varies widely – the NAO found that costs could vary from £30,000 (for a more straightforward cross-boundary case) to over £200,000 (involving itinerant traders and recurring instances of doorstep crime). Under current funding arrangements, this means that around half of LATSS would need to commit over 40% of their annual staff budget to resourcing such a case³⁰.
234. Pure enforcement actions are, the Government believes, best integrated across the country in a single organisation which collectively takes responsibility for addressing all threats, regardless of where they arise.

Options identification

235. All options for intervention will be evaluated relative to a 'do nothing' option. In this case, that would entail the OFT (or its proposed successor body, the Competition & Markets Authority, CMA) retaining the full suite of current OFT consumer enforcement powers and responsibilities.
236. In considering the potential options for reform that could address the issue identified above, there are several ways in which the current landscape could be changed:
- Option 1: The majority of OFT's enforcement functions are transferred to Trading Standards, with some consumer enforcement powers being retained by the OFT (or its replacement body, the single CMA)³¹;
 - Option 2: All of the OFT's enforcement functions (and associated funding) are transferred to Trading Standards;
 - Option 3: All supra-local enforcement is undertaken by a single organisation, either the OFT (or its proposed successor body, the single CMA) or by a newly-created national consumer enforcement authority;
 - Option 4: OFT enforcement functions are abolished, with responsibility for enforcing consumer law resting entirely with LATSS, or
 - Option 5: All current LATSS enforcement responsibilities relating to consumer law (including tackling local threats) are transferred to the OFT.

Q17: Are there other options that you think should be considered in relation to consumer enforcement, and why?

Discarded options

Option 4

237. Under this option, the OFT's current consumer enforcement functions would be abolished, leaving the responsibility for enforcing consumer law (at local, regional and national levels) with LATSS. This would maximise the level of savings to the taxpayer, which would equate to the amount currently spent by the OFT on its consumer enforcement functions (estimated to be £12m-13m per year).

³⁰ 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

³¹ For example, as an optional instrument for resolving problems of competition in markets following market studies or investigations

238. However, some form of central co-ordinated enforcement is likely to be necessary to deal with the positive externalities of supra-local enforcement, set out in the rationale section above. It is unlikely that LATSS could satisfactorily perform such a role without any additional funding. Therefore, it is likely that the 'enforcement gap' identified above will widen, leading to further costs to consumers in the form of increased consumer detriment (currently estimated to be over £6bn annually) due to weakened enforcement of consumer law. None of our stakeholders – including business and consumer groups – have suggested such an option would be desirable.

Option 5

239. This option has not been subjected to detailed cost-benefit analysis, as we do not believe that such an approach represents a realistic option. Under such an option, current LATSS responsibilities for enforcing consumer law would be transferred to the OFT. As explained above, LATSS currently have responsibility for enforcement across a number of different areas, including 'fair trading' (which incorporates consumer law). If obligations for enforcing these particular pieces of legislation were transferred to the OFT, it is likely that LATSS resources currently allocated by local authorities to the enforcement of consumer law would be reallocated to other areas (e.g. animal welfare, environmental health). It would then be up to the OFT to establish a network of enforcement teams to carry out inspections, in order to replicate the work currently undertaken by LATSS officers. This would be an unnecessary duplication and it is likely that this would represent significant (both one-off and ongoing) costs.

240. On the basis of the estimated LATSS budget for 2009/10 (£213m, outlined above) and with fair trading work accounting for just under half of this total, it is possible that ongoing costs associated with establishing such a network could amount to approximately £100m per year. It is likely that the set-up costs for an enforcement network would be considerable. In addition, it is likely that there would be costs associated with training of new staff to replicate the knowledge and skills of LATSS officers in relation to enforcement of consumer law, as LATSS and OFT have developed different areas of legal expertise (the OFT taking mainly civil cases, LATSS mainly acting through criminal law). Upskilling and building such an enforcement network would also be likely to take a significant amount of time, during which compliance with consumer law could reduce, leading to an increase in the incidence and severity of consumer detriment (currently estimated by the OFT to be around £6.6 billion per year).

241. Under such an option, there would also be a significant loss of efficiency concerning intelligence that is currently supplied to LATSS from other local authorities, especially in relation to local enforcement threats.

Q18: Do you agree with the assessment of the two options above?

Options analysis

Do nothing

242. As set out above, the base case of 'do nothing' is influenced by the outcome of the parallel consultation on reforms to the competition regime.³² If the proposals in that consultation are implemented, the OFT will no longer exist in its current form. Instead, a new Competition and Markets Authority (CMA) will take on the competition functions of both OFT and the Competition Commission. Therefore, in this scenario it would entail the CMA taking on all current consumer enforcement powers and related functions currently held by the OFT.

243. A slight variant to this would be to retain the same current division of powers and responsibilities between the OFT and Trading Standards, with the CMA having the same consumer policy scope as the current OFT and the CMA would still decide how much resource to allocate out of its overall budget towards consumer enforcement. However, it has been suggested that collaboration between Trading Standards and the OFT could be improved through the establishment of a new board – provisionally entitled the Joint Enforcement Board (JEB) – which would comprise representatives of both the CMA and Trading Standards. The JEB would decide which cases would be prioritised,

³² <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/11-657-competition-regime-for-growth-consultation.pdf>

whether they should be pursued by LATSS or the CMA and identify opportunities for joint working in pursuing cases.

244. This alteration would be less disruptive than the options identified, but lead accountability for national and cross-boundary enforcement would be less clear, as such decisions would be taken on a case-by-case basis by the JEB. Finally, this option would not present the same opportunity to build the leadership and national capability of Trading Standards, as responsibilities would continue to overlap and any resource transfer would be modest.
245. Although the 'do nothing' option and its variant are viable, they are not the Government's preferred course of action. While it has been well documented that there are synergies between consumer and competition policy³³, this option does not realise any of the benefits associated with improved leadership and co-ordination of the LATSS network and would do nothing to address the growing 'enforcement gap'. In addition, there are likely to be significant benefits from having a single newly-merged competition authority with its competition focus undiluted by consumer enforcement responsibilities.

Option 1: Transfer the majority of OFT's enforcement functions to LATSS, with some consumer enforcement powers being retained by the OFT (or its replacement body, the single CMA)

246. Under this option, the majority of the OFT's consumer enforcement and compliance functions – and the resources currently used by the OFT in performing these functions – would transfer to the Trading Standards network. The relevant proportion of the OFT budget would be combined with relevant BIS funds currently supporting consumer enforcement and be directed at strengthening the capacity, leadership and co-ordination of LATSS in order to support more effective action against cross-boundary threats, especially rogue traders and scam operators. Recent evidence collected by the National Audit Office indicates that LATSS is the most sought after organisation identified by consumers in the event of them suffering a problem with something they have bought.³⁴
247. However, under this option the OFT (or its proposed successor body) would retain consumer enforcement powers relating to the operation of markets, but not for cases simply prosecuting and establishing an individual breach of the law. This could be done by establishing consumer law enforcement as one of the suite of remedies available to the competition regulator following any assessment that a market was structurally deficient.
248. It is the Government's vision that these funds should be used to supplement the money that local authorities currently spend on LATSS, by building additional capacity to take on national and cross-boundary cases and to ensure an effective support service. Some of the functions currently performed by the OFT are European requirements and it is essential that they continue to be met, but beyond that, prioritisation of most national cases could be left to the LATSS network if it had proper mechanisms for exercising leadership and co-ordination of effort. The money would be ring-fenced for national consumer policy outcomes rather than simply being added to the Revenue Support Grant available for local authorities to use as they see fit across a range of purposes. The money would **not** be to support local activity against local threats but to provide the capacity for LATSS to act **collectively** against national and regional threats.
249. This additional central Government funding should deliver greater efficiency in the way that local authority enforcement budgets are spent, by improving co-ordination of effort between authorities; and by raising sights, based on improved intelligence, towards targeting the highest-priority sectors and infringements with the greatest consumer detriment. Further detail on the Government's vision for consumer enforcement is detailed in Annex 2.

Addressing the 'enforcement gap'

250. The necessary leadership on cross-boundary enforcement needs to come from Chief Trading Standards Officers acting together. Achieving this could build on the current Trading Standards Policy Forum which is hosted by LGR. In order to be able to deliver the Government's vision for national enforcement its role would need to be expanded, and its form potentially recast.

³³ For example, see http://www.offt.gov.uk/shared_offt/economic_research/oft991.pdf

³⁴ Chosen by 36% of respondents to the question: "If you experience a serious problem with something you have bought and are unable to resolve it with the trader, where would you go for help?"; source: 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

251. BIS envisages the creation of a Heads of Services Board called, for convenience at this stage, the Trading Standards Policy Board. It would need a small secretariat providing administrative and technical support. In practice, for England and Wales the membership of this Trading Standards Policy Board will be closely aligned with that of ACTSO and WHoTS. In future it could be controlled by ACTSO taking into account Trading Standards interests across England and Wales and sited within TSI, given appropriate governance which would also have to include the LG Group. The Government believes that a number of models could deliver the vision as long as they involve policy being driven by Heads of Service through links with ACTSO and their local politicians, and with political oversight at a national level provided by the LG Group and the Welsh Local Government Association.

Devolved considerations

252. In Scotland, COSLA has been working very closely with the Scottish Government, SCOTSS and the Local Government Improvement Service to identify suitable governance and operational models. This work is still ongoing to develop models for the delivery of these functions in Scotland. Initial options being considered include a similar model to that proposed for England and Wales. BIS is in discussion with COSLA about the most suitable location for this arrangement (either COSLA itself or a SCOTSS-led model in TSI) but is mindful that there may be particular issues to be taken account of in Scotland.³⁵

Operational principles

253. In terms of governance of the new model, BIS has determined a number of operational principles that it believes are essential for the continuation and development of a robust consumer enforcement policy:

- Firstly, it is essential that the TSPB is willing and able to identify and take on all relevant cases including large complex cases which may, for example, raise novel legal issues across the UK. This is necessary, among other reasons, to ensure that the model can adequately fulfil the UK's duties under European law.
- Secondly, there needs to be a case management system to ensure that cases are designed and delivered effectively and that there is co-ordination to manage duplication and to prioritise national resources on the greatest need. Outcomes of cases should be monitored and this should include prosecutions and civil cases, but also undertakings or other compliance agreements or methods of resolution.
- Thirdly, the model should take account of the better regulation agenda and the Hampton enforcement principles and regulators' statutory obligations in relation to the principles of good regulatory practice set out in the Regulators' Compliance Code. It should be able to demonstrate that actions taken are proportionate and in line with these principles, avoiding duplication and ensuring use of the right legislative tools so that consumers are effectively protected with minimum harm to legitimate business. This must include developing a strong partnership with business representative bodies in order to ensure dialogue and feedback. Supporting this will be part of the LBRO's ongoing responsibility in relation to regulatory enforcement, and its Business Reference Panel could be made available to help in prioritisation for example.
- Finally, national funding should only be used to combat genuine regional and national and international threats and should not become a "crutch" or bail out for local authorities that simply fail to invest enough resource in their core LATSS operations.

Costs

254. There are four main sources of costs associated with this option – the first of these is transition costs (comprising mainly redundancy costs at OFT, which would fall on Government); the second is intangible costs, such as loss of expertise among OFT staff and loss of OFT deterrence effect in large-scale enforcement cases; the third is the loss of the benefits of integration between consumer enforcement work, competition policy and market analysis, and the fourth are familiarisation costs for consumers and business in adjusting to the new consumer landscape.

Redundancy costs associated with moving OFT enforcement functions to Trading Standards

³⁵ For example, COSLA already has an integrated approach developed within other areas (such as the Business Gateway and myjobScotland) and it may make sense to develop links with this infrastructure

255. Overall, it has been estimated that redundancy costs associated with losses of OFT staff across its current consumer policy functions would be £6.5m, which incorporates some elements of back-office and administrative resources.³⁶ Due to the division of responsibilities within the OFT, it is difficult to apportion these costs accurately across the relevant policy areas. However, it is estimated that the proportion of these costs incurred in relation to enforcement is likely to be over 85% of the total, i.e. £5.7m. However, under this option some consumer enforcement activity would be retained by the OFT (or its successor body, the CMA). Through discussion with policy colleagues, we have conservatively estimated that 10-20% of current consumer enforcement activity will be retained, leading to a reduction in costs of 10-20%, i.e. generating one-off redundancy costs of **£4.6m-5.1m**.

One-off costs of expanding role for TPSB

256. Under this option, there would be some one-off costs associated with expanding the role of the Trading Standards Policy Board – for example, by providing a full-time secretariat of maybe 4 or 5 people – with ongoing costs no more than (and likely to be substantially less than) the administrative elements of transferred OFT funding. There may be some recruitment and training costs from expanding the secretariat, though these are likely to be negligible given the number of people involved. We have provisionally estimated that such costs could amount to **£0.1m**. However, we will seek to refine this estimate during the consultation period by working closely with LATSS as their proposed delivery model develops further.

Q19: Do you think the cost estimates above are reasonable?

Costs to LATSS of securing access to necessary specialist (legal/economic) resources

257. In relation to the necessary legal and economic expertise required to build and prepare national enforcement cases, this is likely to be already available to some extent within the Trading Standards network and, to the extent that it is not, would likely be secured by LATSS on a case-by-case basis. This is the model that has been successfully operated by Scambusters for the last 4 years and one that is widely employed across local government more generally. This is a different model to that currently employed by the OFT, where such legal and economic resource is retained entirely in-house on a permanent basis.

258. The magnitude of the costs associated with this new model will depend heavily on the scale and nature of cases that might be undertaken by LATSS, which are difficult to anticipate. As a guide, the range of annual legal costs incurred by Scambuster teams in the last 2 years has been £0-0.04m per team. If this were applied to 10 such teams, this would imply costs of £0-0.4m per year. However, although the type of work undertaken may be similar to that currently undertaken by Scambuster teams (e.g. collating of intelligence, preparing cross-boundary cases for prosecution), under this option the enforcement responsibilities would be much broader. This therefore suggests that £0-0.4m would be an underestimate. On the basis of discussion with policy colleagues and Trading Standards, it has been assumed that the increased range and complexity of issues likely to be dealt with by these teams means that costs may be up to 5 times larger, generating ongoing costs of up to £2m per year.

259. These costs, however, would be met from within existing OFT budgets for enforcement, the majority of which would be transferred to the LATSS network under this option. As we do not currently have a comparable estimate for current OFT spending on such resources, it is not clear at this stage whether periodic recourse to external expertise will be cheaper or more expensive than the current situation, where OFT pay for such staff on a permanent basis. However, we note that in the course of discussions with Trading Standards about this type of model, they believe that enforcement of national cases can be delivered at a lower overall cost to the taxpayer, compared to the amount currently spent by the OFT. However, we will seek to refine and build on estimates during the consultation period by working closely with LATSS and the OFT as their proposed delivery model develops further.

³⁶ It has been estimated that approximately 175 people work on relevant consumer functions at OFT; under the Civil Service Compensation Scheme, employees are entitled to one month's pay per year of service. For the purposes of this calculation, it has been assumed that the average length of service is 9 years and average salary is £50,000 – i.e. $0.75 \times £50,000 \times 175 = £6.5m$

Q20: Do you have any information which could help to refine the estimate of these costs?

Loss of expertise in OFT staff

260. Under this option, there would be some loss of embedded knowledge and expertise in the enforcement of consumer law associated with OFT staff, but the OFT would have the continued ability to use consumer powers to solve problems in markets identified through its market analysis and competition enforcement tools.
261. Although the LATSS network should collectively be able to undertake enforcement cases of a similar scale – and hence there should be no loss to consumers from weakened consumer enforcement – there is a risk that worse outcomes may result from this loss of expertise. However, the arrangements set out above should provide LATSS enforcement teams (at both the local and regional level) with sufficient funding to acquire the necessary skills and knowledge to mitigate this risk significantly.

Loss of OFT deterrence effect

262. Moving enforcement functions away from the OFT to LATSS may result in consumer detriment, if deterrence effects decline because businesses perceive a reduction in the threat of effective enforcement against them. Having a strong national “brand” may be useful in certain enforcement cases, for instance as a last recourse following use of an industry-led compliance scheme, such as that operated by the Advertising Standards Authority. Here, the cases may not be large or complex, and they will not generally have a competition angle, but there is a clear value to the strong deterrence effect offered by the threat of enforcement. However, it is not clear that businesses tempted to reduce compliance with consumer law will perceive this to be the case and any such effects might well be short-term, if Government succeeds in establishing robust leadership of the Trading Standards network against national and cross-boundary threats. Although it has not been possible to quantify such effects at this stage, we are working with relevant authorities to uncover more evidence on which to base estimates.

Q21: Do you have any evidence that might help to quantify the current deterrence effect associated with OFT consumer enforcement action?

Familiarisation costs associated with new landscape for consumers and businesses

263. Consumers and businesses who are currently well-informed about the appropriate enforcement body to go to may need to familiarise themselves with the new landscape. However, given the role that LATSS already play in enforcement of consumer law (hence consumers’ and firms’ familiarity with them in this sphere) and the shared intelligence on potential threats to consumer protection provided through contact with Consumer Direct (that is provided to both OFT and LATSS), such familiarisation costs are likely to be negligible.

Benefits

Efficiency savings from improved use of financial resources

264. One benefit of this option would be that transferring all funding currently allocated to OFT over to LATSS should improve the overall efficiency of using public funds to support consumer enforcement. There should be efficiency savings arising out of reduced co-ordination costs, given that all enforcement decisions can be managed within a single organisation with a clear leadership structure, which is not the case at present.
265. The new Trading Standards Policy Board would have policy responsibility and corresponding funds to allocate for combating all regional and national threats. The targeting of local, regional and national threats could be integrated and specialist teams established for specific purposes as needs develop. This should improve the efficiency with which local authority funding of LATSS is spent, by counter-balancing any temptation to retreat into small-scale actions against low-level threats and instead mobilising LATSS resources to act against the most economically important targets.

266. The precise scale of the efficiency savings are unknown, however, we would note that in 2009 the OFT estimated that for every £1 spend on LATSS, the direct consumer savings would be at least £6.³⁷ There is no direct comparator for OFT, but it has been estimated that the average annual consumer benefits of OFT consumer enforcement work for 2007-10 was £42m per year.³⁸ Taking into account the uncertainties surrounding the amount OFT currently spends on consumer enforcement above (£12m-13m), this would suggest that their benefit-cost ratio is just over 3:1, though such estimates are bound to have a margin of error.

Q22: Do you have any additional evidence that could help to estimate the potential efficiency savings associated with this option?

Improved leadership and co-ordination of LATSS enforcement

267. The other main benefit under this option would be the development of a much stronger leadership and co-ordination function within LATSS, which should help to address the 'enforcement gap' identified earlier. A priori, it is difficult to estimate what the impact on the level and scale of national enforcement cases might be under this option. However, we note that OFT has estimated that the average annual consumer benefits associated with its national enforcement activity for the period 2007-2010 is £42m.³⁹ This would suggest that even a small increase in national enforcement activity could yield significant consumer benefits.

268. Recent findings by the NAO indicate that the OFT has only chosen to take on 2 of the 15 enforcement cases referred by LATSS over the last two years. We will be working closely with LATSS during the consultation period to understand how many of these cases might be taken forward under any new arrangements. We will then be able to use this information as a basis on which to quantify the benefits to consumers associated with such enforcement action. We would invite views from consultation respondents on other methods and sources of data that would help us quantify benefits in relation to this option.

Q23: How do you think the level and scale of national consumer enforcement cases might change under this option?

269. One of the main criticisms of the UK consumer enforcement system by businesses and independent commentators in the past has been that it is inconsistent and the efforts are uncoordinated. Strengthening central allocation of casework within LATSS and establishing clear responsibility for addressing all threats in an integrated way should go a long way to addressing these complaints. Furthermore, some of the funding transferred to LATSS is expected to be used to establish a mechanism to underwrite the risks for individual enforcement authorities inherent in bringing larger-scale, national cases. Access to such support would depend on peer review, thus introducing an element of quality control and collectivisation of decision-making into LATSS enforcement work, which has been limited in the past.

270. Greater leadership, peer review and collective decision-making should all help to reduce the burden on business of regulatory compliance.

Option 2: Transfer all of OFT's enforcement functions (and associated funding) to LATSS

271. This option would be similar to Option 1 above, but would involve the transfer of all OFT's current consumer enforcement functions (and associated funding) to LATSS, who would take on the responsibility for prioritisation of enforcement cases and the lead role.

Costs

272. The transition costs for this option would be similar to Option 1 – i.e. transition costs (redundancy costs at OFT and expanding the existing LATSS network) and intangible costs, such as loss of expertise among OFT staff and loss of OFT deterrence effect in large-scale enforcement cases.

³⁷ This estimate does only include direct financial impacts and does not include indirect financial impacts such as reducing anti social behaviour, a reduction in physical harm and deterrence effects

³⁸ Positive Impact 09/10: Consumer benefits from the OFT's work, July 2009 (http://www.offt.gov.uk/shared_offt/reports/Evaluating-OFTs-work/oft1251.pdf)

³⁹ source: 'Positive Impact 09/10', OFT (2010)

However, because no enforcement activity would remain in OFT/CMA, the transition costs would be higher. The costs associated with loss of integration between consumer and competition policy would also be much higher than in Option 1.

Redundancy costs associated with moving OFT enforcement functions to Trading Standards

273. Under this option, the proportion of overall estimated OFT redundancy costs would all of those allocated to enforcement functions, i.e. **£5.7m**.

Costs of expanding TPSB and LATSS acquiring necessary legal/economic resources

274. As for Option 1, there would be some one-off costs associated with expanding the role of the Trading Standards Policy Board (estimated at **£0.1m**) and ongoing costs in acquiring the necessary legal and economic expertise required to build and prepare national enforcement cases (estimated at up to £2m per year, but these costs will be met from within existing OFT budgets for enforcement, all of which would be transferred to the LATSS network under this option). This latter arrangement is likely to be similar to that successfully employed by Scambusters for the last 4 years, with some expertise likely to be secured by LATSS on a case-by-case basis externally, rather than maintained in-house. However, the magnitude of these costs will depend heavily on the scale and nature of cases that might be undertaken by LATSS, which are difficult to anticipate. It is therefore not clear at this stage whether periodic recourse to external expertise will be cheaper or more expensive than the current situation, where OFT pay for such staff on a permanent basis. However, we will seek to refine and build on estimates during the consultation period by working closely with LATSS and the OFT as their proposed delivery model develops further.

Q24: Do you have any information which could help to refine the estimate of these costs?

Loss of expertise in OFT staff

275. Similarly to Option 1, there would be a loss of embedded knowledge and expertise in the enforcement of consumer law associated with OFT staff. However, this effect is likely to be heightened compared to Option 1.

Loss of OFT deterrence effect

276. As above, moving enforcement functions away from the OFT may result in consumer detriment, if deterrence effects decline because businesses perceive a reduction in the threat of effective enforcement against them. In this case, the loss of deterrence effect may well be significantly greater than Option 1, in respect of breaches of consumer law arising in complex markets. Businesses in such markets may doubt the capacity of LATSS to analyse the markets with sufficient sophistication to collect the necessary evidence for successful enforcement. Although it has not been possible to quantify such effects at this stage, we are working with relevant authorities to uncover more evidence on which to base estimates.

Loss of benefits of integration between consumer and competition policy

277. The benefits of integration between consumer and competition policy enforcement are, as stated above, well documented.⁴⁰ In particular, it is important that markets can be analysed with an open mind as to whether they are functioning well or whether there may be market failures on either the supply or the demand side. Where markets are not functioning well, it is also important to have available a range of remedies for addressing any competition problems. Mainstream competition law remedies only offer a solution where problems are caused by abuse of market dominance or by anti-competitive agreements between companies (such as cartels). This is why the Competition Commission currently has a range of other remedies available to it at present for use where problems of competition in markets are more complex, or where the cause is impossible to prove.

278. Consumer law enforcement is currently a remedy available to the OFT to use where it finds problems of competition in markets. Consumer enforcement capacity in these cases can be seen as an alternative tool for effective delivery of competition (as well as consumer) policy. Therefore, removal of such a tool from the competition enforcement body or bodies could therefore be seen as undermining effectiveness of competition policy delivery, which is not the Government's intention.

⁴⁰ For example, see http://www.offt.gov.uk/shared_offt/economic_research/offt991.pdf

Familiarisation costs associated with new landscape for consumers and businesses

279. As for Option 1, consumers and businesses who are currently well-informed about the appropriate enforcement body to go to may need to familiarise themselves with the new landscape. However, given the role that LATSS already play in enforcement of consumer law (hence consumers' and firms' familiarity with them in this sphere) and the shared intelligence on potential threats to consumer protection provided through contact with Consumer Direct (that is provided to both OFT and LATSS), such familiarisation costs are likely to be negligible.

Benefits

280. Similarly to the costs above, the benefits associated with this option are likely to be identical to Option 1, but with potentially greater efficiency savings from transferring all resources to LATSS and slightly higher benefits deriving from improved leadership and co-ordination of LATSS enforcement, due to more funding being transferred.

Efficiency savings from improved use of financial resources

281. Similarly to Option 1, there should be an improvement in the overall efficiency of public funds used to support consumer enforcement, as LATSS enforcement offers a more favourable cost-benefit ratio (6:1) than OFT enforcement (just over 3:1), though such gains are maximised under this option.

Improved co-ordination of LATSS enforcement

282. More so than for Option 1, there will be stronger co-ordination within LATSS. This will facilitate the integrated targeting of local, regional and national threats and specialist teams can be established for specific purposes, as needs develop. This will reduce co-ordination costs – as discussions with OFT will no longer be necessary – and there will be an established process for decision-making within LATSS, with some funding transferred to LATSS to underwrite the risks inherent in bringing larger-scale national cases.

Option 3: Supra-local enforcement undertaken by the OFT (or its proposed successor body, the single CMA) or a newly-created national consumer enforcement authority

283. Under this option, all responsibilities for enforcing consumer legislation beyond the local level would be transferred to a single organisation, either the OFT (or its proposed successor body, the single CMA) or a newly-created national consumer enforcement authority. In either scenario, enforcement at the local level would be dealt with (as now) by LATSS.

284. This would eliminate any uncertainty over the split in roles and responsibilities that currently exists between LATSS and OFT, as everything beyond the local level would be dealt with by a national enforcement body (either the OFT or a newly-created body). However, the extent to which such an arrangement might address the 'enforcement gap' identified earlier would depend on the resourcing and prioritisation decisions of the relevant authority.

285. Arguably, part of the reason that the gap currently exists is due to a discord between those cases prioritised for national action by LATSS on the basis of locally-gathered intelligence and the prioritisation criteria of the OFT. If the national enforcement authority were to remain the OFT, there would have to be some change in prioritisation of enforcement cases if this option were to adequately address the enforcement gap. Such an option would likely entail significant enhancement of OFT resources, including (almost certainly) the establishment of a network of regional offices to handle supra-local cases, which form a significant proportion of total consumer enforcement cases. If this remained unchanged, the OFT would simply have a greater set of responsibilities (and likely a larger amount of suggested cases), with no increased desire to undertake enforcement action.

286. If a new body were created to take forward all supra-local enforcement action, this would be inconsistent with the desire to reduce the number of public bodies and would create a body with a very narrow remit, relating to national consumer enforcement cases alone. In addition, creating a new body would provide neither the benefits of the current integration of competition and consumer enforcement policy, nor would it deliver the efficiency and co-ordination gains or targeting of resource to the front line that the Government wishes to achieve. The new body would be costly to

set up, which would be an unnecessary expense given the other existing options for discharging the OFT's consumer enforcement powers.

287. Finally, we note that there is no support for such an option from any stakeholders in relation to consumer law. However, we understand that such a model may be similar in some respects to one currently being considered by the Food Standards Agency.

Costs

Costs of establishing new body

288. Under this option, if a new body were created to undertake these responsibilities there would be costs associated with its establishment. A priori, it is difficult to make an accurate estimate of such costs, but recent experience relating to institutional change associated with OFT consumer credit responsibilities⁴¹ suggests that such costs may be **up to £5m**. Any associated redundancy costs in relation OFT staff may be minimised, if these staff can be accommodated or transferred into the new national consumer enforcement body.

Costs of establishing a network of sub-national enforcement teams

289. Under this option, it is likely that a network of sub-national teams would need to be set up to facilitate enforcement of cases that cross local authority boundaries – for example, by collating intelligence gathered through LATSS. It is difficult to quantify the costs associated with establishing such a network at this stage, but a suitable comparator on which to base initial estimates could be the Scambuster and Illegal Money Lending teams currently funded by BIS, which work in partnership with relevant LATSS, collating intelligence and helping to prepare cases for prosecution.

290. Data on the costs of establishing Scambuster and Illegal Money Lending teams indicate that setting up such a model would amount to £0.07m-0.13m per team. Following such a model would imply the creation of roughly 10 teams, which would suggest one-off costs of £0.7m-1.3m. However, although the type of work undertaken by sub-national consumer enforcement teams would be similar to that undertaken by Scambuster/IML enforcement teams (e.g. collating of intelligence, preparing cross-boundary cases for prosecution), their remit would be much broader than these specific responsibilities. For example, the detriment associated with illegal money lending is estimated to be £370m per year⁴², while the detriment associated with scams is estimated to be £3.5bn per year⁴³, in comparison to an overall estimate for detriment associated with cross-boundary enforcement threats of £4.8bn per year⁴⁴.

291. This therefore suggests that £0.7m-1.3m would be a significant underestimate. On the basis of discussion with policy colleagues and Trading Standards, our best judgement is that the increased range and complexity of issues likely to be dealt with by these sub-national teams may be up to 5 times larger, generating one-off costs of **£3.5m-6.5m**.

Costs of securing access to necessary specialist (legal/economic) resources

292. In relation to the necessary legal and economic expertise required to build and prepare national enforcement cases, this is likely to be already available to some extent within the OFT, but may need to be expanded to deal with the additional responsibilities conferred on them under this option. As above, this has been estimated to amount to up to £2m per year, though again these would be met from within existing budgets for enforcement.

Q25: Do you have any information which could help to refine the estimate of these costs?

Loss of benefits of integration between consumer and competition policy

293. As for Option 2, if a new body were created, then the benefits of integration between consumer and competition policy enforcement would be foregone.

Familiarisation costs associated with new landscape for consumers and businesses

⁴¹ 'A new approach to financial regulation', BIS/HMT (2010)

⁴² 'Interim evaluation of the national Illegal Money Lending projects', BIS (2010)

⁴³ 'Research on impact of mass marketed scams', OFT (2006)

⁴⁴ 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

294. Similarly to Options 1 and 2, there may be costs to consumers and businesses from familiarising themselves with the new landscape. However, such costs would only apply in relation to the creation of a new body, with consumers and businesses adjusting to the replacement of the OFT in relation to consumer enforcement. It is therefore expected that these familiarisation costs would be negligible.

Benefits

295. Under this option, it is likely that there would be improvement relative to the current situation in terms of co-ordination and consistency of enforcement, as almost all activity would be controlled by a single organisation. However, the issue of prioritisation of enforcement cases would remain (particularly if responsibilities stayed with the OFT or its proposed successor body, the single CMA), which could merely shift the 'enforcement gap' identified above to smaller cross-boundary 'regional' threats that the national agency may find it harder to pick up. There should also be an efficiency gain from most enforcement activity being operated out of a smaller number of regional centres.

Q26: Do you agree with the assessment of this option?

Risks

Option 1

296. Under this option, there is a risk that the transfer of additional funding for consumer enforcement to local councils could result in existing LATSS being displaced, which may result in local councils imposing stricter cuts than otherwise would have been the case. In extreme cases, this displacement may be 100% – i.e. there may be no overall increase in funding available for LATSS at a local level. However, this risk is significantly mitigated by ring-fencing this additional funding for the purpose of undertaking prosecution of national enforcement cases.

297. As outlined above, an additional risk under this approach is that individual local authorities may not be able to take on more complex cases, in particular test cases where the outcome may be unclear. In such cases, those authorities would be required to bear the burden of appeals (potentially up to the Supreme Court or European Court of Justice) or face costs if they lose and these factors may represent more risk than some councils are prepared to take on. Some of these risks can be mitigated through national funding, but others may require some kind of national mechanism for risk-sharing. To address this, Government is looking at setting up an indemnity fund or a scheme for pooling legal risk, or a combination of the two. Ultimately, the purpose would be to purchase or provide insurance against the potential risks of long, drawn-out cases or of losing. Some element of risk management – both directly by the teams responsible for the case and at national level – would be necessary. The Government is still working with relevant stakeholders to develop the best model for this risk-sharing mechanism but recognises it as a priority.

298. If co-ordination between LATSS fails, then there is a risk that the UK may be unable to fulfil requirements under European and other law where cases must be undertaken. Such failure is however, unlikely as long as central Government funding for coordination is ring-fenced and adequate.

Option 2

299. The risks under this option are similar to those for Option 1, with the addition of detriment occurring due to the inability of any competition authorities (or the single CMA, if the proposed merger goes ahead) to exercise any powers related to consumer issues. Given the potential synergies between the enforcement of consumer and competition law outlined above, the Government believes that competition authorities should retain powers to enforce consumer law, where it is the most appropriate remedy to a competition problem in a market

Option 3

300. As set out above, there is a significant funding risk associated with this option. As a minimum, this option would necessitate establishing a new network of sub-national enforcement teams, which would be impossible to achieve within existing OFT budgets. A potential alternative would be to transfer some funds currently given to local authorities to a national agency. In practice, the complexities of local government finance and the difficulty of establishing precisely how much local authorities currently spend on enforcement of fair trading laws against cross-boundary threats will make this difficult to deliver. It may also be argued that local authorities have little obligation to address cross-boundary threats at present so no resource can be transferred. However, even if funding for a national enforcement agency can be secured, the impact on the residual LATSS would be considerable, with local authorities likely to cut funding further.
301. There may be efficiency losses from the loss of integration of fair trading resources with those deployed to tackle other Trading Standards threats (animal health, food labelling, product safety, intellectual property abuse, etc). There is also the additional risk that, if a new national consumer enforcement body is established, during the transition period compliance with consumer law could deteriorate and the 'enforcement gap' identified above could potentially widen significantly.

Summary

302. BIS has looked at the capacity of LATSS services to deliver their various functions. Where there is insufficient resource in a particular locality, there is a threat to the integrity of the service in that area and for the country as a whole. Traders are mobile and operate across authority boundaries, so LATSS need to be able to work collectively and be prepared, as most do now, to do work that may initially benefit the citizens of another authority as much as its own. The sharing of regulatory services between different authorities will help in some cases but, given the budgetary pressures currently facing local authorities, there is a threat that many will no longer be able or willing to prioritise larger, cross-boundary cases. There can be strong cost and risk disincentives, especially for small LATSS, to taking on large complex cases – for example, a judgement in a recent case resulted in an individual Trading Standards Service being ordered to pay £4m in legal costs. The level of resource required to investigate and prosecute cases involving cross-boundary or national issues can also vary considerably – the NAO found that costs could vary from £30,000 (for a more straightforward cross-boundary case) to over £200,000 (involving itinerant traders and recurring instances of doorstep crime). Under current funding arrangements, this means that around half of LATSS would need to commit over 40% of their annual staff budget to resourcing such a case.⁴⁵ This leads to an 'enforcement gap', with LATSS focusing more on small-scale local threats and with regional and many national threats inadequately addressed.
303. In this context, a new approach to national and regional enforcement is proposed. This is designed to ensure that an enforcement gap does not materialise, by creating a new leadership and co-ordination function for Chief Trading Standards Officers, based (in England and Wales) on a new Trading Standards Policy Board (TSPB) and an enhanced role for regional Trading Standards teams and/or particular local authorities in leading responses to threats at the national and regional levels.⁴⁶ A proportion of the current OFT enforcement budget and BIS funding for national enforcement programmes would be combined and made available to LATSS through this mechanism. This model would address the inconsistency of consumer enforcement in the UK, which has been identified in independent studies as an area of weakness.
304. Most of the investigative work against national and regional threats would be performed by expanded regional teams, building on the successful Scambuster and Illegal Money Lending units, and/or by lead authorities acting against businesses headquartered on their territory, as now. Lead local authorities with specialist teams would be appointed, however, to take on cases such as those relating to internet enforcement or possible breaches of the Estate Agents Act or those allocated from other Member States under the Consumer Protection Co-operation Regulations.
305. In light of the analysis above, the Government does not believe the 'do nothing' option is appropriate, as this option would not release money into the LATSS network that would enable them

⁴⁵ 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

⁴⁶ In Scotland, early indications are that similar governance arrangements involving Convention of Scottish Local Authorities and Society of Chief Officers of Trading Standards in Scotland may be appropriate

to set and focus on priority issues, in order to address the enforcement gap which is currently facing the UK. Abolition of the OFT's enforcement functions was also considered, but would likely result in unacceptably low levels of compliance with consumer law, undermining confidence in markets and the Government's growth strategy and so was not developed further. If responsibility for all supra-local enforcement was transferred to a single body, either the OFT (or single CMA) or a new national enforcement body (as under Option 3), it would continue to be used in accordance with the priorities of that body, in addition to any potential costs from creating an entirely new public body.

306. The Government also believes, however, that moving all OFT enforcement functions to LATSS (Option 2) carries a significant risk that systemic enforcement of consumer law to remedy market failures would become difficult or impractical. In order to protect capacity at national level to take whatever action is necessary against businesses which may constrain competition in markets, the proposed new single Competition and Markets Authority (CMA) would retain powers to take action against breaches of consumer law, wherever these breaches may inhibit competition in markets. This option would still accommodate a concentration of enforcement and legal expertise in LATSS and secure the co-ordination gains of an enhanced operation of the Trading Standards Policy Forum. Given this, the Government's preferred approach is Option 1.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review:</p> <p>This impact assessment includes a commitment to review the proposed changes 5 years after implementation (these changes are expected to be fully implemented by 2013) – the review is expected to be undertaken by 2018.</p>
<p>Review objective:</p> <p>The aim of the review would be to assess whenever or not the changes to the consumer landscape have achieved the objectives set out in this impact assessment – i.e. strengthen the front line of consumer empowerment and protection, reduce the complexity of consumer landscape and for consumer services to be delivered more cost-effectively.</p>
<p>Review approach and rationale:</p> <p>The review would evaluate the effectiveness of the changes within this impact assessment. The review will incorporate stakeholders' views that will include consumers, business groups, LATSS, and Citizens Advice. Government spending on consumer services will be monitored.</p>
<p>Baseline:</p> <p>The OFT study on consumer detriment in the UK shows that overall detriment in 2008 was £6.6bn. This will be monitored in the future for the purposes of comparison. Survey data shows the awareness among consumers of their rights. Also, the current level of expenditure on consumer services by the government is known, and can be used a future benchmark.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Consumers are more empowered and the level of consumer detriment decreases, likely to be as a result of increased awareness of their rights and confidence in exercising them. In addition, consumer services are delivered at a lower cost to government.</p>
<p>Monitoring information arrangements:</p> <p>Feedback from businesses, consumers groups, LATSS and Citizens Advice will be achieved through regular engagement. The transition costs will be recorded during the implementation stage and Government will monitor the ongoing costs of the new organisations via annual reports and management information. More general information about the conditions facing consumers can be collected through surveys and the European Commission's Consumer Market Scoreboard, currently published bi-annually.</p>
<p>Reasons for not planning a review:</p> <p>N/A</p>

Annex 1: Specific impact tests

Equality Impact Test

Consumer advocacy/consumer information, advice & education

307. Changes to the consumer landscape will result in some bodies being abolished and other organisations being redesigned to incorporate new functions and powers. A reallocation of resources and powers towards Citizens Advice, particularly in relation to consumer advocacy and consumer information, advice and education, could have a positive impact on various protected groups.

Characteristics	UK population (%)	Citizens Bureau clients (%) ¹
Female	51 ²	55
Disabled	5 ³	25
Age (65+)	17 ⁴	10
Single parents	10 ⁵	16
Ethnicity	11 ⁶	15

308. Latest data⁷ shows that certain groups are over-represented among CABx clients, such as females, disabled households, single parents and clients from an ethnic minority background. Therefore, these clients may be positively affected by the focus of resources on Citizens Advice service. However, older persons (defined here as aged 65 and over) are under-represented among CABx clients and may therefore be slightly adversely affected. However, as Citizens Advice is predominantly a face-to-face advice service, this may favour older households that are less likely to use the internet.⁸

309. In addition, the current statutory obligation on Consumer Focus to investigate complaints made by vulnerable consumers in the electricity, gas and postal services sectors (currently fulfilled by the Extra Help Unit within Consumer Focus) will be transferred to Citizens Advice, so this feature of the current consumer landscape will be preserved.

310. To evaluate the impact of the proposed changes above, it will be necessary to look at how these characteristics compare to those consumers who currently make use of both the Consumer Focus Extra Help Unit (which will be transferred to Citizens Advice) and Consumer Direct (which will be subsumed as part of the consumer contact service provided by Citizens Advice). However, we have not yet gathered sufficient evidence to make this comparison. We will continue to work closely with both Consumer Focus and Consumer Direct during the consultation to help provide a more robust estimate of the expected impacts. Regardless of these expected impacts, actual impacts will be monitored throughout the implementation phase.

Q27: Do you agree with the above assessment of the impact of the proposed policies on protected groups?

Q28: Do you have any further evidence that could help with assessing the impact of the proposed policies on protected groups?

¹ Source: Advice Trends

² 2011 data; source: Social Trends No. 40 (ONS)

³ Based on claimants of Disability Living Allowance in 2008/09; source: Social Trends No. 40 (ONS)

⁴ 2011 data; source: Social Trends No. 40 (ONS)

⁵ 2009 data; source: Social Trends No. 40 (ONS)

⁶ http://www.statistics.gov.uk/downloads/theme_labour/lalm-statistical-indicators-jan11.pdf

⁷ Advice Trends, July-Sept 2010 (http://www.citizensadvice.org.uk/advice_trends_2010-11_q2.pdf)

⁸ 60% of those aged 65 and over have never accessed the internet (source: <http://www.statistics.gov.uk/cci/nugget.asp?id=8>)

Consumer code approval scheme

311. In terms of the impact on protected groups associated with ceasing funding for the OFT's Consumer Code Approval Scheme, we have not yet been able to gather sufficient data about the customers that currently utilise codes that have already received OFT approval. We would welcome views of respondents – including suggestions of further evidence – that could help to evaluate this impact during the consultation period.

Q29: Do you have any further evidence that could help with assessing the impact of the proposed policies on protected groups?

Consumer enforcement

312. In terms of the effect on protected groups associated with moving the majority of OFT functions (and associated funding) to the Trading Standards network, there should not be any adverse impacts, as we would anticipate there being a decrease in the 'enforcement gap' identified earlier. This would mean that the number of national enforcement cases being undertaken should increase, relative to the current situation. Although we do not have any detailed data about the characteristics of those consumers who are currently suffering detriment due to such cases, OFT research about the psychology associated with scams indicates that⁹:

- up to 20 per cent of the UK population could be particularly vulnerable to scams, with previous victims of a scam consistently more likely to show interest in responding again;
- a good background knowledge of the subject of a scam offer, such as experience of investments, may actually increase the risk of becoming a victim through 'over-confidence', and
- victims are not in general poor-decision makers, for example they may have successful business or professional careers, but tend to be unduly open to persuasion by others and less able to control their emotions.

313. It is therefore difficult to anticipate how these characteristics may be associated with those of protected groups, but we will request data from LATSS enforcement teams about actual cases and work with the OFT during the consultation to help provide estimates of the impacts.

Q30: Do you have any further evidence that could help with assessing the impact of the proposed policies on protected groups?

Competition Test

314. The proposals within this impact assessment will not (directly or indirectly) limit the range of suppliers or reduce their ability to compete. Proposed reforms to the enforcement landscape could be pro-competitive, by increasing resources allocated to removing rogue firms, which should improve consumer confidence in markets and reward fair-dealing businesses.

Small Firms Test

315. The changes proposed within this impact assessment will affect all law-abiding firms equally. Therefore, we do not believe that there will be a disproportionate impact on smaller firms. Improved co-ordination of consumer enforcement and the other proposed changes to consumer landscape should empower consumers, which will result in markets operating more efficiently.

Other Impact Tests

316. After initial screening, we do not believe that there will be any impacts in the areas of greenhouse gas, wider environmental issues, health and well being, human rights, rural proofing and sustainable development.

⁹ 'The psychology of scams: Provoking and committing errors of judgement', OFT (2009)

Annex 2: A new model of consumer enforcement

317. Discussions with partners have identified a number of elements that it believes should apply to the implementation of the proposed new model.

Leadership

318. In England and Wales, leadership would need to be provided by Heads of Service. In principle, the Government thinks that any Trading Standards Policy Board (TSPB) should be chaired by an elected Head of Service, with membership drawn from Heads of Service from all regions and nations, as appropriate. The body would be able to exert significant influence over the entire delivery system, derived from its ability to deploy a considerable budget in support of its objectives. It is also key that this is linked to, although separated in budget terms from, the ongoing activity carried out by individual local authorities, as close association between Heads of Service and local politicians is important. It is also key that there is sufficient political scrutiny at the national level which is best delivered via the Local Government Group (LGG) on the one hand, and BIS on the other. The accountability to the LGG could be either directly to one of its programme board members or through a separate political oversight mechanism, utilising appropriate LGG board members. The exact nature of the governance and oversight would be a matter for the LGG to determine in agreement with BIS.
319. The TSPB would be supported by a full-time secretariat to prepare its agenda and meetings. The job of chair would become a time-consuming job and meetings would have to be regular. The TSPB would consider intelligence on where consumer detriment is occurring, determine budgetary allocation alongside enforcement priorities, issue guidance on priorities and manage major case allocation. Members of this body would have to ensure that they could create sufficient time to devote to their activities on behalf of their regions and this group as a whole.
320. To take this forward, the TSPB – along with counterparts in Scotland and working with DETI in Northern Ireland – will need to strengthen itself so as to be able to deliver leadership and co-ordination between LATSS. Once new mechanisms to achieve this are in place, a proportion of OFT's consumer functions and resources, alongside BIS resources for consumer enforcement support, could be transferred to the relevant part of the network. Although BIS does not wish to specify the mechanisms, it will retain an oversight and monitoring role in respect of national/regional enforcement: it must ensure that national funding offers value for money.

National enforcement

321. National enforcement work in England and Wales would be undertaken by a combination of expanded regional teams with individual local authorities (backed, as necessary by a financial risk underwriting mechanism) dealing, as now, against companies headquartered on their territory. There would also be a small number of regional teams or particular authorities with specialist areas of expertise. The members of the regional teams would continue to be employed by local authorities with powers to take on the cross-boundary investigative work required by most regional and national-scale cases. They would need to be able to fund and access legal and economic expertise as necessary to support relevant cases. In particular, legal expertise must be available for all stages of cases, from preparation and planning of the case through to litigation and appeals. The lead regions or authorities would cover issues such as estate agency and internet enforcement, as well as the technical areas of consumer law (such as unfair contract terms legislation), where a more detailed understanding is needed than is likely to be available in most individual local authorities.
322. The Government is considering the scope of the current Trading Standards powers including, for example, how a lead authority, with appropriate ring-fenced national funding, might take on OFT's functions under the Estate Agents Act or act as a competent authority to take on cases referred from other Member States under the EU Regulation on Consumer Protection Co-operation. This may require consequential changes to the Local Government Act 1972 to allow an individual authority to take action even when there is a minimal link to the interests of the inhabitants of its area.¹⁰ Under

¹⁰ To enable such a change to be effective, these actions would need to be funded via the new mechanism.

these changes to the landscape, any such change would be limited to the exercise of powers formally transferred from the OFT and not be extended to cover existing Trading Standards powers. Separately, BIS is currently undertaking a wider review of Trading Standards officers' powers looking at issues such as cross-boundary authorisation of officers where there may be benefits to creating a simpler system. Where the outcomes of that review indicate a need for legislative change to improve the Trading Standards officers' powers, any proposals will be subject to consultation at the appropriate time.

323. Some stakeholders have suggested that within the current system, individual local authorities may not practically be able to take on more complex cases – in particular test cases where the outcome may be unclear. In such a case, those authorities would be required to bear the burden of appeals (potentially up to the Supreme Court or European Court of Justice) or face costs if they lose and these factors may represent more risk than some councils are prepared to take on. It is important that larger national cases that are enforcement priorities for the whole country should be supported and these should not be refused simply because they raise novel points or the outcome is likely but not sufficiently certain. Some of these risks can be mitigated through the national funding, but others may require some kind of national mechanism for risk-sharing.
324. To address this, Government is looking at setting up an indemnity fund or a scheme for pooling legal risk, or a combination of the two. Ultimately, the purpose would be to purchase or provide insurance against the potential risks of long, drawn-out cases or of losing. Nevertheless, some element of risk management both directly by the teams responsible for the case and at national level, is necessary to ensure that spurious or ill thought-through cases are not taken. This could be achieved at national level through guidance on when a case would be considered suitable to be backed by the risk-sharing mechanism; coupled with an element of peer review to approve it (or to allocate additional national funding support) and ongoing monitoring review of how the case is progressing. The Chief Trading Standards Officer seeking to bring the case would have to satisfy a committee of his/her peers in the new Trading Standards Policy Board, or perhaps a relevant sub-committee, that the case was an enforcement priority, that it was proportionate and well-founded, that it was being properly managed and that it would merit support. The Government is still working with relevant stakeholders to develop the best model for this risk-sharing mechanism but recognises it as a priority.

Prioritisation and co-ordination of national enforcement cases

325. Prioritisation and co-ordination of national enforcement cases would be led in England and Wales by the TSPB and include operational integration of effort between regional, local and national teams, as well as liaison with individual local authorities and enforcement policy bodies in the Local Better Regulation Office (LBRO) and Local Government Association (LGA). Day-to-day co-ordination and case-allocation would be undertaken by the small secretariat supporting the TSPB. This unit would also maintain enforcement databases (alternatively this function could sit in a lead authority or region if more appropriate) and monitor case management to ensure consistency, lack of duplication and the correct use of resources. Although the formal co-ordination function would cover national and regional cases only and would not be used as a way to set priorities at a local level, it is hoped that this would improve the sharing of best practice throughout the LATSS network. The unit would act in support of whichever local authority is nominated as the Single Liaison Office under the CPC regulations, under a mandate from BIS (or a lead local authority) as the relevant Public Authority. This role would require it to allocate requests to relevant authorities or the designated competent authority where appropriate, and could also perform a similar function in relation to requests from non-EU countries.

Guidance and training

326. Guidance and training for LATSS professionals and guidance for business on enforcement and compliance practice could be provided by the Trading Standards Institute (TSI) under the new system.¹¹ The OFT currently publishes a substantial range of guidance documents, for example

¹¹ As the professional body for Trading Standards professionals, TSI currently acts as the lead point of contact and advice for professional issues. This covers the performance and activity of LATSS officers, as well as the necessary skills and competencies.

relating to unfair terms legislation. If the proposed CMA indeed has a consumer enforcement role limited to resolving problems of competition in markets, it would probably make sense for the current OFT role providing business guidance to be passed to the Trading Standards network as well.

327. As the professional body for Trading Standards professionals, TSI currently acts as the lead point of contact and advice for professional issues. This covers the performance and activity of Trading Standards officers, as well as the necessary skills and competencies. The Common Competency Framework which LBRO is developing across regulatory functions to provide common and transparent professional standards of competency¹² will secure the position of the professional bodies, including TSI, as the leaders in ensuring professional standards are maintained. TSI is also well placed to partially compensate for any downsizing of the role of LGR following reforms to the Local Government Group, if the necessary finance is available. Its role does not currently extend to providing advice and guidance on the substance of the law, but the Government and stakeholders agree that given its expertise and reputation for providing professional guidance, TSI would be able to build up its expertise and rise to this challenge, notably by seconding in experts from individual LATSS to bolster its own resources where necessary.

International liaison and general policy work

328. Most international liaison and OFT's general policy work¹³ would also logically transfer to the LATSS network, if the CMA has a limited consumer enforcement role. The policy work most commonly concerns discussions on enforcement across international borders and can relate to a number of issues, notably:

- co-ordination of intelligence and of enforcement efforts against rogues operating across borders;
- sharing experience of enforcement techniques;
- sharing experience of legal precedents and implications of legal differences, giving rise to policy discussions, and
- sharing understanding of market developments, latest market research and implications of new technologies for consumer detriment.

329. In the first three instances, a CMA limited to using consumer enforcement to resolve problems of competition in markets would probably not be the most suitable body to lead on broad consumer enforcement policy for the UK. In the case of shared market understanding, Government would expect the CMA to stay up-to-date with all the latest trends and intelligence from around the world, to the extent that they impinge on problems of competition in markets, through active participation in international competition policy networks.

330. Government believes that the best body within the Trading Standards family to take on any new policy roles would be TSI, acting on behalf of a lead local authority or on behalf of BIS. With such a mandate, TSI would thus represent the UK at meetings of the European Consumer Protection Co-operation network and the International Consumer Protection and Enforcement Network (ICPEN). TSI already represents the UK in international fora on product safety issues and has a strong understanding of the issues. The Government is confident that it would be able to undertake the necessary elements of these functions. Alternatively, this function could sit with the Trading Standards Policy Board secretariat.

Role of proposed single Competition and Markets Authority

331. The Government is proposing that a single, streamlined expert competition and markets authority would be created by the merger of the Competition Commission and the competition and markets investigation functions of the Office of Fair Trading (OFT). This new body would have greater effectiveness and efficiency to investigate mergers, markets, cartels and anti-competitive practices. It would also retain the function of independent market investigation and analysis which cuts across

¹² The Common Competency Framework is comprised of a core regulatory skills competence framework containing skills which are generic to any regulator, underpinned by a series of technical knowledge frameworks specific to areas of regulation and sectors. Further details can be found here: www.lbro.org.uk/lbro-projects-professional-competency.html

¹³ Excluding market studies

the consumer and competition spheres. The Government's recent consultation sets out the Government's intended scope for the CMA – i.e. that it should be primarily competition-focused. The primary role of the CMA would be to ensure fair and effective competition between companies and to promote competitive markets conducive to stability, growth, innovation and consumer welfare. Nevertheless, a number of commentators have raised the question of whether some, perhaps more limited, consumer enforcement and related powers or functions should remain available to the CMA.

332. Where competition in markets is deficient, there may be situations where enforcement of consumer law offers the most pragmatic and fair solution.¹⁴ As such, this would be an appropriate use of the single CMA's resources. Therefore, the Government believes that the single CMA should retain powers to enforce consumer law where it is the most appropriate remedy to a competition problem in a market.
333. A wider question is whether the CMA should retain consumer enforcement powers more generally, even when there is no problem of competition in markets to resolve. It could be argued that the CMA is likely to have the strongest capacity for analysis of markets, as well as a capacity for managing complex cases and the deepest pockets (and hence highest risk tolerance) for bringing controversial cases against large businesses. A single body undertaking this role may also retain a level of consumer legal expertise in one place. On this basis, it is more practical for it to be able to bring those "pure" consumer cases which do not give rise to problems of competition in markets, but where strong economic analysis and high risk tolerance are critical.
334. However, Government is concerned that the CMA should have a clear focus solely on making markets work better, and not be distracted by other considerations, notably those of social equity and perceived "unfairness", which are often inherent in applying consumer law. The Government also believes that Trading Standards enforcers must have the capacity and leadership to bring large cases to combat regional and national threats as the competition focus of the CMA may lead it to prioritise other work. This proposed focus of the CMA on competition issues may also reduce the availability of specialist consumer legal expertise over the longer term.
335. On balance, the Government is therefore inclined to conclude that the CMA should not have the same broad-based consumer enforcement role as the OFT does at present. Retention of powers without limitation would tend to deny Trading Standards the resources which the Government believes are necessary to deliver the co-ordination benefits and leadership within the Trading Standards network that the Government wants and believes will deliver significant efficiencies over time. Retention would also deny the CMA the singularity of purpose which is inherent in its current proposed design and might therefore distract it from its core competition remit.
336. Arguably, the largest gains from integrating consumer enforcement and competition functions derive from the unity of analysis of markets, where competition and consumer-related effects can be hard to disentangle, and the desirability of having consumer remedies available for some complex competition problems in markets, where competition remedies may not be easily deployable. These benefits could be secured through provision of more modest consumer powers for the CMA described above. Questions of the unfairness of corporate behaviour, which are unrelated to competition concerns could, Government believes, be analysed by Citizens Advice, especially if it takes over, as proposed, the research activities and budgets of Consumer Focus, adding to that capacity the intelligence it receives from consumers themselves.
337. Pure consumer enforcement actions are, the Government believes, best integrated across the country with collective responsibility for addressing all threats regardless of where they arise. It would also be open to the TSPB to commission economic analysis if it was deemed necessary. Such analysis could be provided by a number of sources, such as the Citizens Advice service or independent economists as appropriate.

Cases that cross over institutional boundaries

338. Some individual cases will inevitably be capable of being handled in several ways. It is vital that resources are not wasted through duplicative actions by more than one institution and equally vital that cases are not dropped because each authority imagines that it is someone else's responsibility

¹⁴ Unfair contract terms might become disincentives to switching, for example, whilst misleading statements to boost sales may be replicated across a range of suppliers to reinforce incumbents and deter market entry

to take action. A further risk is one of delay as cases can be passed from one organisation to the next and back again as each body is unwilling to prioritise the dedication of its own resources to the task.

339. To minimise these risks, it is important that responsibilities are clear and there is as little overlap as possible between the different organisations in terms of their responsibilities. One of the issues with the current enforcement landscape is that OFT has wide scope to take action but limited resource, leaving it to carefully prioritise actions, whereas LATSS offices can be reluctant to take up large cross-boundary cases which they may feel should be pursued by the OFT.
340. The Government therefore believes that roles should be clear and responsibilities should sit, as far as possible, squarely within one organisation. CMA will be squarely responsible for ensuring competition in markets, but consumer enforcement can only be a means to that end, and with no assumption that it is the only or even the most appropriate remedy in any given case. LATSS will be squarely responsible for all consumer enforcement save that which the CMA chooses voluntarily to perform. Citizens Advice will be responsible for identifying consumer detriment, but with complete freedom to prioritise sectors and issues as it sees fit.
341. Regardless of how carefully the different responsibilities of the different organisations are delineated, there will be crossover points and especially cases involving dynamic markets where it is not clear, for example, whether a given market faces or will face a structural problem weakening competition or rather a case of breach of consumer law by one or a small number of businesses. The most appropriate course of action could be for the CMA to launch a market study or for Citizens Advice to analyse the level of consumer detriment arising or for LATSS to proceed directly with one or more individual enforcement actions.
342. In these cases the Government proposes that all three organisations (CMA, Citizens Advice service and TSPB) should collectively discuss and agree the way forward from the start. This can be seen as a sort of “**triple key mechanism**” with each body potentially offering the solution to whatever problem has been identified.
343. For this to work there must first be transparency about the plans of each body. Each of the other two can then be in a position to request a discussion on any matter arising. In practice, the regular meetings of the TSPB would provide a good forum for such discussions to take place. As stated above, each session will involve (perhaps start with) a consideration of intelligence on consumer detriment presented by Citizens Advice. There will also be reports from the Trading Standards regional intelligence teams. CMA could also be invited to present its recent analysis and work plans before enforcement priorities are determined. If further work on any individual case is required a working group could be appointed to take the matter forward.
344. At the end of each financial year, BIS will review the contribution that each body has made to these areas of potential overlap and may revise its funding support allocations to take account of the respective contributions of each organisation.

Annex 3: List of consultation questions

Information, advice and education:

Q1: Do you think other options should have been considered in relation to this policy area?

Q2: Do you agree that this is not an appropriate or suitable option?

Q3: Do you have any evidence that could help to refine the cost estimates presented above?

Q4: Do you have any evidence that could help to refine the assessment of benefits associated with the above option?

Q5: Do you have any evidence that might help to estimate the costs of Consumer Focus providing a consumer contact service?

Q6: Do you agree with the risk analysis presented above?

Cessation of consumer code approval scheme

Q7: Do you think other options should have been considered in relation to this policy area?

Q8: Do you agree with the analysis of the above option?

Q9: Do you have any evidence that could help to refine the estimates of costs and benefits associated with this option?

Q10: Do you have any evidence that could help to refine the cost estimates presented above?

Q11: Do you think that the arrangements outlined above ('primary authority'-style approval arrangements) would be beneficial to consumers, code sponsors and member firms?

Q12: Do you think that the arrangements described above mean that BSI could offer a suitable alternative approval mechanism, in the absence of CCAS?

Transfer of consumer advocacy responsibilities

Q13: Do you agree that these options should not be developed further?

Q14: Do you have any evidence that could help to refine the cost and benefit estimates above associated with this option?

Q15: Do you have any evidence that could help to refine the cost and benefit estimates above associated with this option?

Q16: Do you agree with the risk analysis presented above?

Transfer of consumer enforcement powers

Q17: Are there other options that you think should be considered in relation to consumer enforcement, and why?

Q18: Do you agree with the assessment of the two options above?

Q19: Do you think the cost estimates above are reasonable?

Q20: Do you have any information which could help to refine the estimate of these costs?

Q21: Do you have any evidence that might help to quantify the current deterrence effect associated with OFT consumer enforcement action?

Q22: Do you have any additional evidence that could help to estimate the potential efficiency savings associated with this option?

Q23: How do you think the level and scale of national consumer enforcement cases might change under this option?

Q24: Do you have any information which could help to refine the estimate of these costs?

Q25: Do you have any information which could help to refine the estimate of these costs?

Q26: Do you agree with the assessment of this option?

Equality Impact Test

Q27: Do you agree with the above assessment of the impact of the proposed policies on protected groups?

Q28: Do you have any further evidence that could help with assessing the impact of the proposed policies on protected groups?

Q29: Do you have any further evidence that could help with assessing the impact of the proposed policies on protected groups?

Q30: Do you have any further evidence that could help with assessing the impact of the proposed policies on protected groups?

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URN 11/981