

# Flexibility for changing markets

Annual Report and Resource Accounts 2008 - 09

# Annual Report and Resource Accounts 2008-09

This edition of the OFT's Annual Report and Resource Accounts covers the 12-month period from 1 April 2008 to 31 March 2009.

Presented to Parliament pursuant to section 4(3) of the Enterprise Act 2002  
and section 6(4) of the Government Resources and Accounts Act 2000

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# Contents

	Page
<b>Chairman and Chief Executive's statement</b>	<b>4</b>
<b>About the OFT</b>	<b>8</b>
<b>The Board</b>	<b>12</b>
<b>Themes for the year</b>	<b>17</b>
<b>Enforcement</b>	<b>18</b>
<b>Market tools, analysis and policy</b>	<b>31</b>
<b>Advocacy, advice and guidance</b>	<b>38</b>
<b>Improving the way we work</b>	<b>44</b>
<b>Operating and financial review</b>	<b>51</b>
<b>Focusing on the future</b>	<b>54</b>
<b>Resource accounts</b>	<b>57</b>
Statement of parliamentary supply	68
Operating cost statement	69
Statement of recognised gains and losses	69
Balance sheet	70
Cash flow statement	71
Statement of net operating costs by departmental strategic objectives	71
Notes to resource accounts	72
<p>The following statistical annexes are available on our website: <a href="http://www.offt.gov.uk/annualreport">www.offt.gov.uk/annualreport</a></p>	
<b>Annexe A</b>	Consumer law casework
<b>Annexe B</b>	Consumer credit statistics
<b>Annexe C</b>	Competition casework
<b>Annexe D</b>	UK mergers casework
<b>Annexe E</b>	Local authority prosecutions
<b>Annexe F</b>	Complaints to Consumer Direct
<b>Annexe G</b>	Freedom of information/data protection
<b>Annexe H</b>	Progress against annual plan commitments 2008-09

# Chairman and Chief Executive's statement



**Philip Collins**  
Chairman



**John Fingleton**  
Chief Executive

The severe disruption in the financial markets, and the subsequent economic crisis, have provided a challenging backdrop to an active year for the OFT. In these conditions, the role of strong and effective competition and consumer regimes to ensure that markets continue to work well for consumers is even more important than in more favourable and prosperous times. In 2008-09 we responded actively, creatively and flexibly to the changing economic conditions.

Through our enforcement work, we demonstrated how the targeted and proportionate use of our statutory powers can help us towards achieving high-impact outcomes. During the year, our work covered a wide range of harmful behaviour, from the alleged unlawful pricing practices in relation to dairy and tobacco products to scams and misleading debt-management practices. Our actions carry a strong deterrent message. By securing the first ever UK criminal convictions of cartel participants, for example, we underlined the personal risks individuals take when they collude or fix prices rather than compete – a temptation that may grow as the recession continues.

We have investigated markets that appear not to be working effectively for consumers. Through our market studies we have proposed remedies ranging from self-regulatory codes and additional consumer information, to a recommendation to government for statutory regulation.

Preventing harm in the first place is an essential complement to taking enforcement action afterwards. We have enhanced our engagement with businesses and trade organisations to raise awareness of their responsibilities and to encourage them to comply with the law. We have also provided consumers with advice and information to help them make sound choices and get the best value from suppliers.

Particularly during these tough economic times, businesses dealing with us rightly expect institutions to be joined-up and the burdens on business to be minimised. We have increased our use of short, focused market studies, and also we are working closely with the Competition Commission to make improvements to our processes.

In our consumer protection work, we have built on our strong relationship with local authority Trading Standards Services (TSS) by formally agreeing a framework that establishes the principles we will follow in our work together and provides a mechanism for coordinating our interactions at an operational level.

### **New powers**

In terms of our statutory powers, the year saw significant and far-reaching changes with the introduction in May 2008 of the Consumer Protection from Unfair Trading Regulations (CPRs), implementing the European Union-wide Unfair Commercial Practices Directive. The CPRs have established a new principles-based regime for assessing unfairness and permit the OFT and our enforcement partners to act against aggressive commercial practices, which is a very welcome development. We launched our first criminal investigation under the CPRs, concerning a suspected unlawful pyramid scheme, in January 2009.

The consumer credit licensing regime was also enhanced when changes to the Consumer Credit

Act came into force in April 2008. These enabled us to target our resources more effectively on higher-risk activities such as debt collecting and sub-prime secured lending. They also give us a wider range of powers to require licensees to improve their conduct when it causes concern.

### **Internal changes**

We were very pleased that the National Audit Office's report on the OFT's competition work, published early in 2009, gave us a favourable overall assessment and we are taking forward the various recommendations that they made.

At board level, Vivienne Dews joined us from the Health and Safety Executive in April 2008 as Executive Director of Corporate Services. We also welcomed three new non-executive directors:

James Hart, former Commissioner of the City of London Police; Anthony Lea, who was formerly Finance Director of Anglo American group; and Philip Marsden, Director and Senior Research Fellow at the British Institute of International and Comparative Law. These new appointees have brought a rich blend of skills and experience to the OFT. During the year, Richard Whish and Bronwyn Curtis stepped down from the OFT Board. We would like to thank them for their contribution to the development of the OFT and its work since 2001, and wish them every success for the future.

### **Looking ahead**

The OFT's competition and consumer powers enable us to use a wide range of remedies to address problems in markets, and to take a flexible and proportionate

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**We will continue to strive to ensure choice, competition and open markets remain central features of the policy debate, both domestically and internationally.**

approach. In the year ahead, we will act decisively to ensure consumers are fairly treated, and to champion the role of open competition in moving the economy forward. Our work must help restore consumer confidence in markets, which will be crucial to bringing the UK out of recession.

We will also work to anticipate the changes that the current downturn will bring in terms of new risks to consumers and businesses. These may require us to change the way we focus our work. But our vision – of competitive markets working well for consumers – will remain central to all that we do.

We will continue to strive to ensure choice, competition and open markets remain central features of the policy debate, both domestically and internationally. The regulatory framework may

be subject to change in some sectors, and we will particularly aim to ensure that proposals developed to deal with immediate economic problems do not hamper competition or consumer choice in the longer term as we have outlined in our annual plan 2009-10.



**Philip Collins**  
Chairman

**John Fingleton**  
Chief Executive



# About the OFT

The Office of Fair Trading is a non-ministerial government department. We are the lead body in the UK responsible for competition and consumer policy and enforcement, and our mission is to make markets work well for consumers. We focus on outcomes which support productivity, growth and the prosperity of the UK economy as we believe this is in the best interests of businesses and consumers. We support the development of competitive, efficient, innovative markets where standards of consumer care are high, regulation is not disproportionately burdensome and businesses are encouraged to offer benefits to consumers beyond the protection afforded by law.

In our view, it is essential to look at the demand and supply sides of markets together. Skilled consumers are an important driver of competition. Where confident, empowered consumers are able to make informed decisions, businesses are more likely to innovate, reduce inefficiencies and compete in ways that make markets work well for consumers and the wider economy.

A full account of our functions can be found at: [www.of.gov.uk/advice\\_and\\_resources/resource\\_base/legal/](http://www.of.gov.uk/advice_and_resources/resource_base/legal/)

## Our approach

Our approach is founded on the principle that consumers benefit from competitive, open and well-functioning markets.

We consider carefully, at an early stage and throughout our investigations, what intervention tools and remedies might be most appropriate to ensure we obtain proportionate and effective outcomes. We also aim to ensure that our interventions do not impose unnecessary costs on business as such costs are typically

passed on to consumers in the form of higher prices, lower quality or reduced choice.

We have a wide range of tools at our disposal, from promoting industry self-regulation and consumer education through to merger control and the direct enforcement of competition and consumer legislation. In many cases, we use a combination of these tools. We also work in partnership with other organisations which have complementary powers or influence in relation to markets.

We seek to act fairly and achieve consistent outcomes in the market. This does not mean we always take the same steps to enforce the law in the same way on apparently comparable cases or use the same statutory powers. We will seek to be agile in our work and tailor action to individual circumstances.

Preventing harm in the first place is better for consumers than taking enforcement action afterwards. One of the ways we achieve this is through equipping businesses and consumers with knowledge about their legal obligations and rights.

Our prioritisation principles articulate the factors that we take into account when making

prioritisation decisions. We employ an increasingly sophisticated approach to estimating the scale and cause of consumer harm, paying particular attention to the needs of vulnerable consumers, and provide a consistent approach for thinking about and explaining our choices.

## What we do

### Enforcement

Competitive and customer-focused markets are the best guarantee of consumer welfare. However, when market forces fail to prevent harm to consumers, we seek to change the behaviour of businesses – through voluntary compliance or, where necessary, enforcement action.

We have a range of enforcement tools at our disposal.

Under competition law, we can:

- issue directions to bring an infringement to an end
- apply financial penalties and bring criminal prosecutions
- investigate mergers, and accept and review undertakings.

Under consumer law, we can:

- bring criminal prosecutions in respect of unfair commercial practices
- refer cross-border cases to other member states within the European Union under the Consumer Protection Co-operation Regulations
- seek court injunctions against rogue traders
- refuse and revoke consumer credit licences, and impose requirements and fines
- warn and ban estate agents.

We target our actions against the behaviour that poses the greatest threat to consumer welfare, such as mass-marketed scams and cartel activity. Publicity around the results of our high-impact cases also works to deter poor practice.

In all our enforcement work, we are committed to acting proportionately to achieve effective outcomes. For example, we can accept undertakings in lieu of further action. Furthermore, parties can avail themselves of significant discounts from financial penalties that might otherwise be imposed, where they cooperate with the OFT by admitting to involvement in anti-competitive behaviour.

### **Market tools, analysis and policy**

Through our market studies, or in response to a super-complaint from a designated body, we investigate markets that may not be working well for consumers. We identify and make recommendations for addressing all aspects of market failure including competition issues, consumer detriment and the effect of government regulation. We may also refer a market to the Competition Commission for further investigation.

In addition, we undertake remedy reviews, which are reviews of undertakings and orders currently in force under the monopoly inquiry, market investigation and merger provisions of the Fair Trading Act and the Enterprise Act.

Through research, intelligence-gathering and analysis, our policy work helps businesses comply with the law and meets consumer needs through self-regulation including our Consumer Codes Approval Scheme.

### **Advocacy, advice and guidance**

Our most important functions include advising government, businesses and consumers on competition and consumer issues. We undertake wide-ranging advocacy work to help ensure government policy does not have an adverse effect on competition. We also continue to play a leading role in a number of international networks and organisations as a centre of excellence and intelligence in the consumer and competition fields.

Consumer advice and education are vital to our role in consumer protection. Our aim is to enable consumers to make informed decisions, resulting in businesses

being more likely to innovate, reduce inefficiencies and compete in ways which make markets work well for consumers and the wider economy. Confident, skilled consumers also benefit legitimate businesses as such businesses will be less likely to lose market share to those engaging in sharp practices.

The OFT manages Consumer Direct, the publicly funded telephone and online advice service for consumers which is delivered in partnership with local authority Trading Standards Services.

We also provide guidance, advice and information to businesses about competition and consumer law to encourage compliance.

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**In all our enforcement work, we are committed to acting proportionately to achieve effective outcomes.**

Deliver  
high-impact  
outcomes

Develop,  
promote and  
attract the  
best talent

Be a centre  
of excellence

## Our vision

Achieve our  
objectives in  
partnership

Be a centre  
of intelligence

### **Deliver high-impact outcomes**

Deliver high-impact outcomes that have significant benefits for consumers and the economy, improve legal certainty, support wider compliance and deterrence, and foster efficient, competitive and pro-consumer market conduct using the entire range of our policy instruments.

### **Be a centre of excellence**

Be a centre of excellence in consumer and competition policy and enforcement – linking international best practice and national economic understanding with national and local delivery,

and engaging in critical self-examination and open evaluation and improvement in how we work.

### **Be a centre of intelligence**

Be a centre of intelligence using economic data and feedback from Consumer Direct, partners and stakeholders, to inform our own and others' work, to identify markets that are not working well, to empower consumers, and to inform business, government and the public about consumer and competition issues.

### **Achieve our objectives in partnership**

Achieve our objectives in partnership with others including sector regulators, government, the courts, the Competition Commission, the European Commission, local authority Trading Standards Services (TSS) and businesses and consumers and their representatives.

### **Develop, promote and attract the best talent**

Develop, promote and attract the best talent providing a supportive environment in which staff can learn and develop to reach their potential.

# The Board



**Chairman**

**Philip Collins** became Chairman of the OFT in October 2005. He is a solicitor who has practised in the UK and EU competition law field for more than 30 years, initially in London and latterly in Brussels.

He was formerly a partner in Lovells where, in 1978, he was the first partner appointed to specialise in competition law. With the subsequent development of the practice, he was made head of the firm's competition and EU law practice.

Subsequently, and until 30 September 2005, he was Senior Counsel at Wilmer Cutler Pickering Hale & Dorr LLP, based in Brussels. Philip was one of the founders of the Competition Law Forum established at the British Institute of International and Comparative Law and a member of its Advisory Board from its foundation in 2002 until 2005. He is also a member of the Editorial Board of the European Competition Journal.



**Chief Executive**

**John Fingleton** became Chief Executive of the OFT in October 2005. John studied economics at Trinity College, Dublin, and Nuffield College, Oxford. He taught economics at Trinity College, Dublin for almost a decade, and spent shorter periods at the London School of Economics, the Graduate School of Business at the University of Chicago, and the Université Libre de Bruxelles.

His academic research focused on industrial organisation, regulation and competition policy.

As Chairperson of the Irish Competition Authority from 2000 to 2005, John oversaw the introduction of new legislation, initiated criminal and civil enforcement, set up a new mergers regime and engaged in widespread competition advocacy, especially in the areas of transport, the professions and financial services. He played an active role in international competition policy and in domestic economic policy, particularly around competitiveness.

The OFT Board is principally responsible for strategic direction, policy priorities and performance monitoring. The executive management team, which is accountable to the Board, is responsible for most operational and enforcement decisions.



#### Executive directors

**Vivienne Dews** became Executive Director of the OFT's new Corporate Services function in April 2008. Vivienne joined the OFT from the Health and Safety Executive, where she was Director of Resources and Planning, and led corporate support and other services. The earlier part of her career was spent mainly in the Home Office. From 1999-2001, she was Chief Executive of the Public Information Technology Organisation. She is a member of the Chartered Institute of Public Finance and Accountancy. She leads delivery of OFT services to consumers and businesses including Consumer Direct, credit licensing, anti-money laundering legislation and the OFT's enquiries department. In addition, she is also responsible for the OFT's in-house services such as human resources, finance and procurement, facilities management and IT.



**Jonathan May** became Executive Director of Policy and Strategy in October 2006, and took on an additional role as Executive Director of Markets and Projects in June 2008. He joined the OFT at the end of 2001 following two and a half years as Director of UK Competition Policy at the Department of Trade and Industry, where he was responsible for developing strategy on competition policy. Before that, he worked at HM Treasury, initially with public expenditure responsibility for the Home Office and overseas aid policies, and later handling competition, utility regulation and energy issues. He is responsible for the teams that handle the investigation aspects of the OFT's work and cover enforcement and diagnostic work, as well as for drawing up the OFT's strategies and policies and ensuring they are implemented consistently across the organisation.



#### Non-executive directors

**Norman Blackwell** (Lord Blackwell) was appointed for a five-year term from 1 April 2003 and then reappointed for a further two years from 1 April 2008. He is non-executive Chairman of Interserve plc and a non-executive Director of Standard Life plc and SEGRO plc. He is also a Board member of the Centre for Policy Studies. From 1995 to 1997, he was Head of the Prime Minister's Policy Unit in 10 Downing Street, following which he was Director of Group Development, NatWest Group, from 1997-2000. He was created a life peer in 1997.



## Non-executive directors

**Alan Giles** was appointed for a four-year term from 1 April 2007. He has many years of experience in retail businesses. He is currently Chairman of Fat Face Limited and a non-executive director of Rentokil Initial plc. He was formerly Chief Executive Officer of HMV Group plc, Managing Director of Waterstone's Booksellers Ltd and Executive Director of WH Smith Group plc. He is an Associate Fellow at Saïd Business School, University of Oxford, where he teaches about retailing.

**James Hart** was appointed for a three-year term from 1 April 2008. He has spent most of his career in the police service, starting in the Surrey and Metropolitan forces and rising to become Head of the Diplomatic Protection Group, and latterly Commissioner of City of London Police. He now holds a small number of non-executive appointments and advisory positions.

**Frédéric Jenny** was appointed for a five-year term from 1 April 2007. He is a Professor of Economics at ESSEC Business School in Paris. He is currently Conseiller en Service Extraordinaire, Cour de Cassation (Member of the French Supreme Court) and Chairman of the OECD Competition Law and Policy Committee. He was closely involved in the establishment of what is now the Autorité de la Concurrence (Competition Authority) in France and latterly became its Vice-President, and is internationally recognised for his work in the competition field.

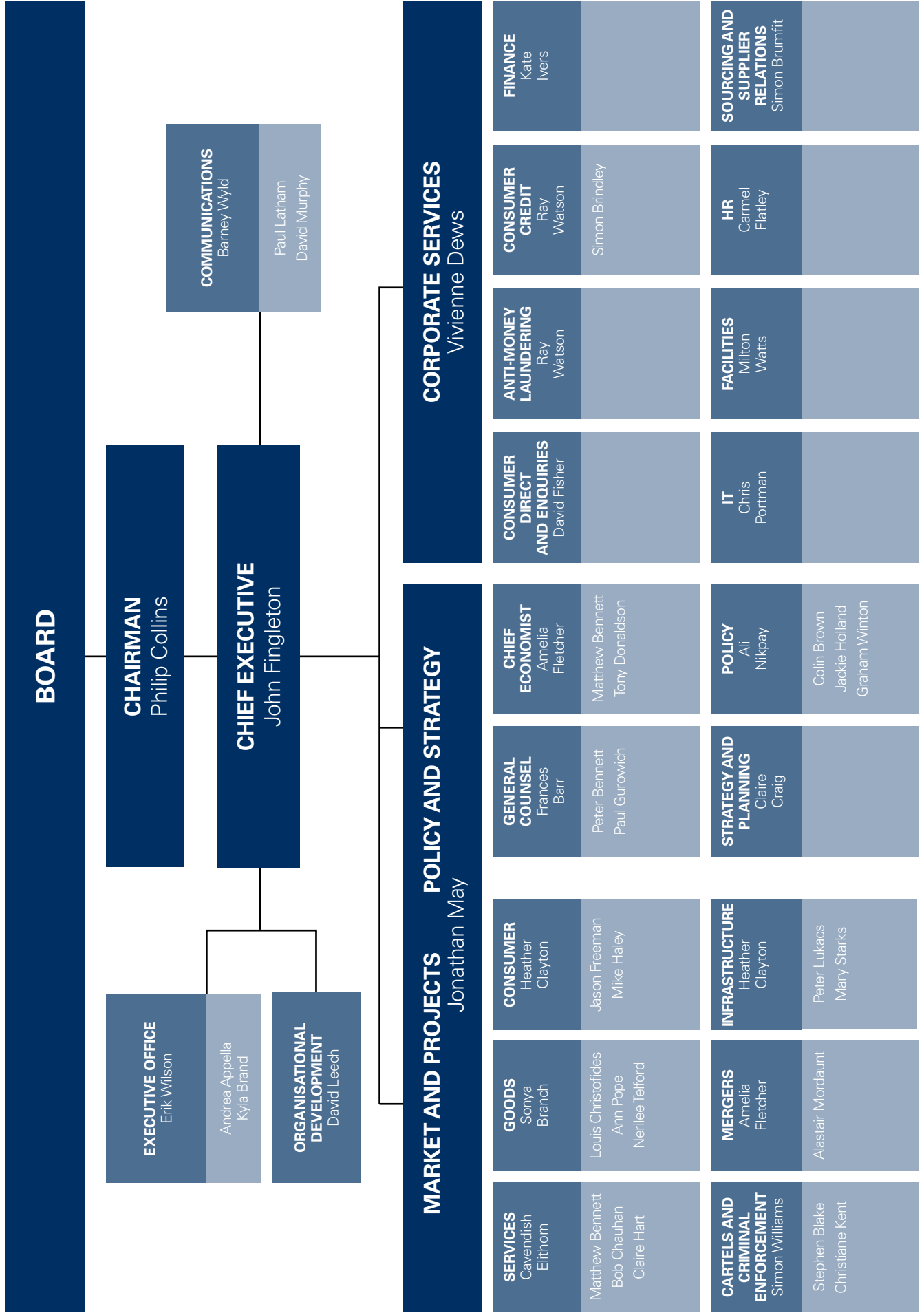


**Anthony Lea** was appointed for a four-year term from 1 April 2008. He is an economics graduate who has spent most of his career within what is now the Anglo American group, latterly as Finance Director, which included responsibility for legal affairs and competition law compliance. He was a non-executive director of various companies in the group including AngloGold Ashanti, De Beers and Engelhard Corporation and Terra Industries. He is currently Chairman of The Emerging Africa Infrastructure Fund, the World Mining Trust plc and a non-executive director of the British Standards Group. He is a Trustee of the RAF Benevolent Fund.

**Philip Marsden** was appointed for a four-and-a-half-year term from 1 October 2008. He is a Canadian and English lawyer and has practised in Toronto, Tokyo and London, and has also worked as an official in the Canadian Competition Bureau. He has a particular interest in competition and consumer policy, and is currently the Director and Senior Research Fellow at the British Institute of International and Comparative Law in London, with responsibility for its Competition Law Forum.

**Richard Whish** was appointed for a four-year term from 1 April 2003 and then reappointed for a further two years from 1 April 2007. His appointment finished on 31 March 2009. He is Professor of Law at King's College, London, where he has worked since 1991. His professional career has been devoted to competition law and policy and he has written extensively on competition law matters. He was in private practice, as a partner, with responsibility for the competition law practice from 1989 to 1998, and continues to act as a consultant on competition law. He has extensive experience of advising governments and NGOs on the development of competition law. He previously served as a member of the Director General of Fair Trading's Advisory Panel.





Our current organisation chart can be found at: [www.offt.gov.uk/structure](http://www.offt.gov.uk/structure)

Senior staff as of 31 March 2009

# Themes for the year

In our annual plan for 2008-09 we set out three key themes: prioritisation, transparency and evaluation.

## Prioritisation

Following consultation with stakeholders, we published the prioritisation principles we would take into account in deciding which projects and programmes of work

to take forward. These open and transparent principles take account of, among other things, the likely impact of action and the risks.

## Transparency

We are committed to being more transparent in the work that we do, and during the year we were more systematic in our engagement with interested parties and stakeholders. In March 2009, we published a pilot update to our website providing more

information on a selection of our ongoing cases and projects, including information on team member contact details and, where possible, key milestones. There will be a formal written consultation in the first quarter of 2009-10.

## Evaluation

During the year we improved our ability to estimate the financial benefit to consumers of our activities. We estimate that for every £1 we received from the Exchequer, we delivered at least £8

of value to consumers. This puts us ahead of our target, agreed with HM Treasury, to deliver measured benefits to consumers of five times our annual budget over the 2008-11 period.

## Responsive to changing circumstances

In addition, we have focused on being agile and responsive to changing circumstances. For example, the likelihood of increasing numbers of repossessions during the recession led us to believe that a growing number of vulnerable people would enter into 'sale and rent-back' agreements, a relatively new development in the property market. As a result of a short study, we concluded that some consumers were getting a raw deal, and as an exceptional

measure we recommended that the market be formally regulated by the Financial Services Authority. On the Lloyds TSB Group - HBOS merger we had to respond flexibly and quickly. Consistent with our statutory obligations, we produced a substantial report for government in a very short time period, drawing on the sectoral expertise we have developed throughout the OFT through our market studies and other work, including the work of the Competition Commission.

# Enforcement

## Acting against anti-competitive agreements

### **Alleged bid rigging in the construction industry**

Following one of our largest-ever investigations under the Competition Act, we issued a Statement of Objections in April 2008 against 112 construction firms alleging that they had engaged in bid-rigging activities, specifically cover pricing. Cover pricing involves one or more bidders colluding with a competitor during a tender process to obtain a price that is too high to win the contract and which is then submitted as if it were a genuinely competitive bid.

We also formally alleged in the Statement of Objections that a minority of the construction companies had agreed that the successful tenderer would pay a sum of money to the unsuccessful tenderer (known as a 'compensation payment').

Under the Chapter I prohibition of the Competition Act, it is unlawful to enter into an agreement or concerted practice that has the object or effect of preventing,

restricting or distorting competition. When the OFT proposes to make an infringement decision under the Competition Act, we use a Statement of Objections to notify the parties involved. The parties then have an opportunity to respond before any final decision is made.

We began considering representations from the firms named in our Statement of Objections with a view to reaching a final decision later in 2009.

### **Investigating construction recruitment**

In October 2008, we issued a Statement of Objections alleging that eight recruitment agencies have breached the Competition Act. We alleged that these recruitment agencies engaged in a collective boycott and price fixing in breach of the Chapter I prohibition of the Competition Act.

### **Alleged collusion on dairy retail prices**

We continued our investigation into alleged collusion between certain large supermarkets and dairy processors over the retail prices of certain dairy products.

In the previous reporting period, we had issued a Statement of Objections alleging that 10 parties had colluded to increase these prices in 2002 and/or 2003, in breach of the Chapter I prohibition of the Competition Act.

In December 2007 and February 2008, we announced that we had reached early resolution agreements with seven of the parties named in our Statement of Objections. These companies admitted their involvement in anti-competitive practices and agreed to pay individual penalties totalling over £120m before discounts.

### **Early resolution in tobacco retail pricing case**

In April 2008, we issued a Statement of Objections alleging that two tobacco manufacturers and 11 retailers had entered into arrangements between each manufacturer and each retailer that linked the retail price of particular brands of a manufacturer to those of competing brands of another manufacturer, in breach of the Chapter I prohibition of the Competition Act. We also alleged that, among some of the parties, there had been instances

of indirect exchange of proposed future retail prices between competitors.

We reached early resolution agreements in July 2008 with six companies, which admitted to engaging in unlawful practices in relation to retail prices for tobacco products in the UK. These companies agreed to pay individual penalties totalling £173.3m before discounts. A number of the parties had previously applied to the OFT for leniency, and the total amount of penalties the six companies have agreed to pay if all leniency and early resolution discounts are given is £132.3m. We have continued our investigation of the case further to representations made by the other parties and information received.

### **First criminal convictions – marine hose case**

Three British businessmen were imprisoned in June 2008 after pleading guilty to cartel involvement. These were the first convictions obtained by the OFT under the Enterprise Act, which makes it a criminal offence for individuals dishonestly to take part in the most serious types of cartel.

Peter Whittle, Bryan Allison and David Brammar admitted to being part of a cartel in the market for marine hose, a specialist rubber hose used in the oil industry. The cartel involved worldwide price fixing by manufacturers, the allocation of customers or markets to particular manufacturers, and the rigging of supposedly competitive bidding processes. The estimated value of UK supplies affected by the cartel's activities between 2003 and 2007 was £17m.

The three men received sentences of between two-and-a-half and three years and were disqualified from acting as company directors for between five and seven years. The prison sentences were subsequently reduced on appeal to between 20 months and two-and-a-half years.

The court also made confiscation orders against Whittle and Brammar, totalling more than £1m, under the Proceeds of Crime Act.

### **Four charged with price fixing – airline fuel surcharges**

In August 2008, we charged four men with cartel offences relating to the alleged fixing of fuel surcharges for long-haul passenger flights.

Martin George, Andrew Crawley, Alan Burnett and Iain Burns were each charged with having dishonestly agreed with others to fix the price for the supply in the UK of passenger air transport services by British Airways (BA) and Virgin Atlantic Airways. The charges were made under the Enterprise Act and relate to a period from July 2004 to April 2006 when the defendants were employed by BA. The trial is expected to start in January 2010.

Following a separate civil investigation by the OFT under the Competition Act, BA admitted in August 2007 to having infringed the Act and agreed to pay a penalty of £121.5m after discounts. Virgin Atlantic is not expected to pay any penalty as it qualifies in principle for full immunity under the OFT's leniency policy.

### Revised leniency guidance

During the reporting period, we published revised guidance for businesses and individuals coming forward with information about their involvement in a cartel.

Areas covered by the guidance include:

- the requirement for a 'genuine intention to confess' and for

'continuous and complete cooperation'

- the criteria for discounts which can be granted to applicants who are not the first to apply for leniency
- the requirements for criminal immunity and the timing of our notification that individuals are not at risk of criminal prosecution
- the timing for entering into formal leniency agreements with the OFT.

Information on guidelines can be found here: [www.of.gov.uk/shared\\_of/reports/comp\\_policy/of803.pdf](http://www.of.gov.uk/shared_of/reports/comp_policy/of803.pdf)

## Identifying abuse of a dominant position

### Cardiff Bus decision

In November 2008, we issued a decision under the Competition Act that transport operator Cardiff Bus had engaged in predatory conduct intended to eliminate a new market entrant in breach of the Chapter II prohibition.

The company, which is owned by Cardiff Council, had responded to the launch by 2 Travel of a 'no-frills' bus service by introducing its

own no-frills service on the same routes and at similar times of day. This service ran at a loss and was withdrawn shortly after 2 Travel exited the market.

We concluded that the conduct of Cardiff Bus was predatory and an abuse of the company's dominant position. As its turnover did not exceed £50m at the time of the conduct, the company benefited from a limited immunity from financial penalties under the Competition Act, and received no penalty. The case, however, sends a clear signal to dominant firms in national and local markets that predatory behaviour is a serious infringement of the law.

## Assessing competitive impact

### Clearing house recognition – ICE Clear

The OFT is required to examine applications from clearing houses to become a Recognised Clearing House under the Financial Services and Markets Act (FSMA), and to decide if regulatory provisions of clearing houses would, on recognition, have a significantly adverse effect on competition.

In April 2008, we completed a review of an application by ICE Clear, which is owned by the IntercontinentalExchange, Inc (ICE), a major US-based global futures exchange. As part of this work, we conducted a consultation of market participants, including potential competitors and customers.

After considering the consultation responses and the application itself, we concluded that recognition of ICE Clear would not have a significantly adverse effect on competition within the meaning of FSMA. Following publication of our report, the Financial Services Authority granted recognition to ICE Clear in May 2008.

## Reviewing mergers

We referred seven merger cases to the Competition Commission in 2008-09. Our reference test was met in a further 11 cases. Of these, we accepted undertakings in lieu of a reference to the Competition Commission in three cases during the reporting period, and were considering undertakings in lieu in three other cases at the end of the year. We cleared four cases on the basis that the relevant

markets were not of sufficient importance to justify a reference (the 'de minimis' exception). The remaining case (Lloyds TSB Group – HBOS, see below) was cleared by the Secretary of State for Business, Enterprise & Regulatory Reform (now the Department for Business, Innovation and Skills). We also formally accepted undertakings in lieu of a reference in three cases from 2007-08.

### **The Co-operative Group – Somerfield**

The proposed acquisition by The Co-operative Group of around 880 Somerfield grocery retail stores raised competition concerns because of extensive overlaps at a local level.

In January 2009, we accepted undertakings from The Co-operative Group to divest stores in 133 local areas. This was the largest divestment package ever accepted in a UK merger. It ensured that consumers would continue to enjoy competition in these local grocery markets, while at the same time allowing a strategically important merger in the grocery sector to go ahead.

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**We reached early resolution agreements in July 2008 with six companies, which admitted to engaging in unlawful practices in relation to retail prices for tobacco products in the UK. These companies agreed to pay individual penalties totalling £173.3m before discounts.**

### **Lloyds TSB Group – HBOS**

When the Lloyds TSB Group plc announced its proposed acquisition of HBOS plc in September 2008, the Secretary of State intervened to allow the public interest in maintaining the stability of the UK financial system to be considered alongside any competition concerns arising from the merger. This was the first time a new public interest consideration had been introduced under the Enterprise Act, and approved by Parliament, in relation to a merger we were currently investigating.

Our report to the Secretary of State concluded that the merger raised competition concerns in relation to personal current accounts, banking services for small and medium-sized enterprises and mortgages.

In the absence of any offer of remedies from the parties, we concluded that a reference to the Competition Commission would normally have been appropriate. However, the Secretary of State considered that, overall, the public interest in maintaining the stability of the UK financial system outweighed the competition concerns we identified, and that the merger should proceed without a reference.

### **Providing guidance on mergers**

To update and replace our respective guidelines on the substantive assessment of mergers, the OFT and the Competition Commission published a joint set of guidelines for public consultation in April 2009. Our intention is to finalise these later in 2009.

We also consulted this year on draft changes to the OFT's jurisdictional and procedural guidance on mergers. This was necessary given that five years had elapsed since publication of the original procedural guidance in May 2003. In a change of format welcomed by stakeholders, the draft text combined guidance on both jurisdiction and procedure. We expected to finalise the guidance in May 2009.

### **Publicising our approach to 'failing firm' mergers**

In light of the changing economic and market conditions, and the importance of regulatory risk assessment for business, we published a restatement of our approach to so-called 'failing firm' mergers. These are cases where the parties argue that the target

business will exit the market without the merger, and any harm to competition should not be attributable to the merger itself. Our restatement set out the criteria we have applied in assessing such situations and confirmed that we would continue to apply these criteria consistently and transparently. The restatement also clarified our willingness to provide businesses with informal advice on prospective mergers – including the application of our 'failing firm' criteria – where appropriate.

### **Mergers intelligence function**

The OFT has the power to investigate a merger even if it has not been notified to us. At the start of 2008-09, we appointed a Mergers Intelligence Officer to try to ensure that genuinely problematic cases are investigated whether or not they are notified. Six of the 11 completed cases we investigated on our 'own initiative' during the year satisfied the test for reference to the Competition Commission.

Individuals or companies concerned that a merger might be anti-competitive should contact us by email at: [mergers.intelligence@oft.gsi.gov.uk](mailto:mergers.intelligence@oft.gsi.gov.uk)  
We will treat all information given

to us in the strictest confidence. Full details of OFT merger cases can be found here: [www.of.gov.uk/advice\\_and\\_resources/resource\\_base/Mergers\\_home](http://www.of.gov.uk/advice_and_resources/resource_base/Mergers_home)

## Reviewing merger undertakings

### **Review of ITV's Contract Rights Renewal undertakings**

With assistance from Ofcom, we published a consultation document in January 2009 setting out our preliminary view that the Contract Rights Renewal undertakings, which control the pricing of ITV1's advertising airtime, should be varied by the Competition Commission.

The undertakings were put in place in 2003 following the merger of Carlton and Granada to form ITV plc. They were designed to address the Competition Commission's concerns about the enhanced market position of the merged entity and the effect this might have on the price of its advertising.

We intend to publish our final recommendations in the first quarter of 2009-10.

## Strengthened consumer protection regime

### **The new Regulations**

The most significant and far-reaching changes to UK consumer protection law for 40 years took effect when the Consumer Protection from Unfair Trading Regulations (CPRs) came into force on 26 May 2008.

The Regulations implemented the European Union-wide Unfair Commercial Practices Directive. While ensuring continued levels of protection, they introduced a new principles-based regime for assessing unfairness, and additional powers that enable enforcers, for the first time, to tackle aggressive commercial practices. The CPRs also provide the OFT, local authority Trading Standards Services (TSS) and certain other bodies with a choice of enforcement route for dealing with breaches of the prohibitions set out in the Regulations – either criminal prosecution or civil action (using the injunctive powers provided by Part 8 of the Enterprise Act). This enables enforcers to take the most proportionate and

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**In light of the changing economic and market conditions, and the importance of regulatory risk assessment for business, we published a restatement of our approach to so-called 'failing firm' mergers.**



effective action on a case-by-case basis. The net effect of the CPRs is to provide a stronger regime to protect consumers.

We continued collaborating with the Department for Business, Enterprise & Regulatory Reform (BERR) and our enforcement partners to implement the CPRs. Jointly with BERR, we published illustrative guidance to help businesses and enforcement agencies understand and make use of the new law. This was well received by the business and enforcement communities.

In addition, we continued to train and support TSS and other enforcers, and to provide case support and advice to TSS on the new consumer law enforcement regime.

### **First court action**

July 2008 saw the first use in a UK court of the CPRs when Wiltshire County Council's Trading Standards Department, with case support from the OFT, became the first consumer protection organisation to obtain an enforcement order under the Regulations.

The order was granted against traders whose customers complained of aggressive

behaviour and poor-quality work. The defendants were ordered not to breach a range of provisions in the CPRs. If the defendants disobey the order, they face being found in contempt of court, which can attract imprisonment, a fine, or both.

### **First criminal investigation**

Working closely with the Avon and Somerset Police, Bristol Trading Standards Service and the South West England and Welsh Trading Standards Scambusters Teams, we launched our first criminal investigation under the CPRs in January 2009. The investigation concerns a suspected unlawful pyramid scheme. We executed entry warrants at three premises in the Bristol area, accompanied by police who arrested three individuals. We also visited two other premises in Bristol and seized evidence. Our investigation is at an early stage and no assumption should be made that any offences have been committed.

### **Estate agents redress schemes**

We worked with BERR to implement the first approved redress schemes for complaints against residential estate agents.

Membership of an OFT-approved scheme is now mandatory for agents under the Consumers, Estate Agents and Redress Act.

We approved two schemes during the year, one operated by the Ombudsman for Estate Agents Company Ltd and the other operated by The Ombudsman Service Ltd. As a condition of approval, the two bodies agreed to submit regular performance and other information that will allow us to monitor the effectiveness of their schemes.

## **Protecting consumers from unfair contract terms**

### **Bank charges**

We welcomed confirmation by the Court of Appeal in February 2009 that the terms used by banks for charging holders of personal current accounts for unarranged overdrafts can be assessed for fairness. The court found that these terms were not part of the core or essential bargain between consumers and their bank, and therefore could be considered for fairness under the Unfair Terms in Consumer

Contracts Regulations (UTCCRs). The banks were given permission to appeal to the House of Lords.

The judgment confirmed our long-held interpretation of this important aspect of consumer law. It meant we were able to continue our investigation into the fairness of terms used for charging for unarranged overdrafts. It also set an important legal precedent that is relevant to businesses across the whole economy.

We expect to reach a final decision on fairness before the end of 2009. If we conclude that the terms are unfair, we will work with the banks to identify how any potential subsequent litigation can be managed sensibly and efficiently.

Our investigation is informed by the wide-ranging market study we carried out into the personal current account market (see page 31). This concluded that the market was not working well, and detailed a range of concerns including the banks' charging structures.

More on our work on personal current accounts can be found here: [www.offt.gov.uk/advice\\_and\\_resources/resource\\_base/market-studies/current/personal/](http://www.offt.gov.uk/advice_and_resources/resource_base/market-studies/current/personal/)

### **McCarthy & Stone**

McCarthy & Stone plc, a national provider of assisted retirement housing, gave undertakings to the OFT that it would amend terms in its contracts that we considered unfair. These included a term in its leases that involved charging consumers a 'transfer' fee of one per cent of the sale price when the lease was transferred. The company disagreed that the terms were unfair, but cooperated with discussions and agreed to remove the terms from future contracts and to cease relying on them in existing contracts.

### **Foxtons**

During 2008-09, we continued our action against Foxtons Ltd. In the previous reporting period, we had issued High Court proceedings against the estate agency seeking an injunction under the UTCCRs that would prevent it from using, in its letting agreements with landlords, terms we considered unfair. In July 2008, we appealed against a preliminary ruling by Mr Justice Morgan, which accepted arguments from Foxtons that any injunction on unfair terms could only apply to future contracts and not to existing ones. On 2 April 2009, the Court of Appeal

overturned this ruling, confirming our long-held view that we can take enforcement action under the UTCCRs to protect consumers in relation both to future and existing contracts. The substantive case addressing the fairness of the terms in Foxtons' contracts was due to be heard in the High Court during the week commencing 27 April 2009.

## Protecting consumers in the credit market

### Enhanced powers

The consumer credit licensing regime was strengthened when changes to the Consumer Credit Act came into force in April 2008. The reforms enable us to focus our resources more effectively on credit activities that pose a high risk to consumers such as debt collecting, fee-charging debt management and sub-prime secured lending and broking. They also give us a wider range of enforcement powers and sanctions.

There were four key changes:

- the 'fitness test' applied to consumer credit licence applicants and holders was extended to give us the power to assess whether a business has the necessary competence

to provide consumer credit products and services

- the fitness test was extended explicitly to cover irresponsible lending
- we gained powers to impose requirements on licensees where we are dissatisfied with any aspect of their licensed business, and the ability to impose financial penalties of up to £50,000 where a requirement is not complied with
- we gained enhanced information-gathering powers.

In October 2008, a further change came into effect. This requires businesses providing credit information services, including those offering 'credit repair' or debt administration, to be licensed specifically for these activities.

### Irresponsible lending consultation

In light of the extension of the fitness test to cover practices involving irresponsible lending, we launched a project to produce guidance for businesses on the lending practices and behaviour we consider irresponsible.

We expect to issue draft guidance for consultation in summer 2009. This will also take into account

responses to our consultation on draft guidance for businesses that provide second-charge lending (see below). We aim to issue final guidance on irresponsible lending at the beginning of 2010.

### Debt collection

We used our enhanced powers under the Consumer Credit Act to look closely at the competence of businesses engaged in, or wishing to engage in, high-risk credit activities including debt collection. In some cases, this included site visits by TSS or the OFT. Where we had concerns about a trader's practices, we used our new powers to take firm action to protect consumers.

For example, we imposed requirements on debt-collection firm 1st Credit Limited to improve its practices after an investigation found that some of its processes and procedures failed to meet satisfactory standards.

### Debt management

We continued to keep the debt management industry under scrutiny.

We warned 12 businesses to amend any misleading claims made in their advertising and promotional material relating to

Individual Voluntary Arrangements. Most of the businesses responded positively by agreeing to amend their mailings or cease the promotional activity altogether.

Following complaints from a number of debt-advice charities, we issued warnings to 11 businesses using 'look alike' websites that made them appear to be official or charity-based sources of free debt advice. All of the suspect websites were subsequently closed down.

In partnership with the Claims Management Regulator at the Ministry of Justice, we issued a consumer alert advising consumers to think carefully before responding to businesses that claim they can arrange for outstanding balances under loan, credit card and other consumer credit agreements to be written off, and that they can secure compensation. Following this, warnings were issued to a number of these claims-management companies regarding the potentially misleading nature of their advertising.

Meanwhile, we accepted undertakings from three debt management companies that they would provide higher standards of service to vulnerable consumers.

### **Second-charge lending**

We published a consultation on draft guidance for businesses engaged in second-charge lending. Second-charge loans, or homeowner loans, involve consumers with an existing mortgage taking out further personal borrowing secured against their home. Such loans are typically used to acquire goods or services or to consolidate debts rather than for home purchase.

The consultation, which concludes in May 2009, followed a government review of arrears and repossession policies and practices in the second-charge sector. The review found examples of good practice within the market but, as with other lending markets, scope for spreading good practice more widely.

The draft guidance, designed to complement existing OFT guidance for lenders, covered a range of issues such as customer care, advertising and selling techniques, contractual terms and conditions, and practices for managing arrears or defaults. It set out the standards of behaviour we expect from businesses in this market.

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**Working closely with the Avon and Somerset Police, Bristol Trading Standards Service and the South West England and Welsh Trading Standards Scambusters Teams, we launched our first criminal investigation under the CPRs in January 2009.**

### **Credit licensing activity**

In April 2008, our credit licensing work became self-funding. Since then, all our consumer credit licensing work has been funded directly by the fees paid by licence applicants and licensees seeking renewals and variations.

The more stringent licensing regime brought about by the changes to the Consumer Credit Act allied to the prevailing economic conditions contributed to a significant reduction in new licence and renewal applications.

A detailed account of our consumer credit licensing activity in 2008-09: Annexe B, 'Consumer credit statistics', can be found here: [www.offt.gov.uk/annualreport](http://www.offt.gov.uk/annualreport)

### **Other consumer protection cases**

#### **Kitchen supplier convicted**

In May 2008, following OFT action, kitchen supplier Vance Miller was found in contempt of court for a second time. Manchester County Court concluded that Mr Miller had breached the Stop Now Order it had previously granted against him. The court fined him £90,000 and gave him a six-month prison

sentence suspended for two years. Mr Miller's subsequent appeal against the sentence was unanimously dismissed by the Court of Appeal.

#### **Retailers' misleading closing-down sales**

We obtained undertakings from three sportswear retailers that they would halt misleading 'closing down' promotions.

We had received complaints that certain shops owned by Sportsdirect.com Retail Ltd, Hargreaves (Sports) Ltd and Gilesports plc were displaying 'closing down' advertisements in their windows for several months. However, some of the shops in question did not close, or closed only for a very short time for refurbishment.

#### **Misleading prize-draw mailings from overseas**

In July 2008, following OFT action, a Dutch company became the subject of an injunction preventing it from sending misleading prize-draw mailings to UK consumers. It was the first court order the OFT has gained in the Netherlands.

Best Sales B.V., trading as Best Of and Oliveal, had been

sending unsolicited mailings to UK residents offering household goods and health remedies. We believed that the mailings were misleading as they appeared to notify recipients of a large prize win and implied that, to receive the prize or to receive it faster, they had to buy something from an accompanying catalogue. We initiated proceedings against Best Sales B.V. in the Commercial Court in Breda in autumn 2006. In July 2008, the court ruled in favour of the OFT and granted the injunction.

#### **Bogus holiday clubs**

As part of an EU-sponsored project, the OFT and partner organisations from five other European countries met with the autonomous authorities for Andalusia and the Canary Islands to raise awareness of the problem of bogus holiday clubs operating from Spain, and to encourage targeted enforcement.

In May and November 2008, in parallel with similar activities by our partners, officers from the OFT, TSS and Consumer Direct attended 10 UK airports to offer advice and distribute innovative consumer education material designed to raise awareness of the problem. This work received widespread national and local media coverage.

Throughout the year, we made a number of referrals to the Spanish enforcement agencies under the Consumer Protection Co-operation Regulation, which provides a formal mechanism for information exchange and cross-border complaint referrals throughout the EU. We continued to liaise with them and provide evidence to inform their investigations.

## Other regulatory activity

### Estate agency regulation

As the national supervisor of the estate agency market, we continued to act against those not fit to be practising estate agency. We responded to many complaints and concluded detailed investigations in 52 cases.

As a result, 11 people were prohibited from conducting estate agency work and four received formal Warning Orders. We dealt with a further 36 cases by issuing informal warnings, giving traders advice on their future conduct or referring them to TSS. These informal warnings were a proportionate response to the findings of our investigations.

We also delivered seminars to more than 700 estate agents and enforcers at 15 venues nationwide. The seminars were over-subscribed and had excellent feedback.

See page 24 for an account of our work on estate agents redress schemes.

### Anti-money laundering regime

The OFT has a statutory duty under the Money Laundering Regulations to supervise estate agents and those consumer credit lenders who are not authorised by the Financial Services Authority or a money service business supervised by HM Revenue & Customs. This requires us to ensure that they comply with the due-diligence provisions of the regulations,

thereby reducing their vulnerability to being used by money launderers or for terrorist financing.

We have a small compliance team whose focus during the year was on raising awareness of the regulations and providing advice and guidance to business. Where allegations of non-compliance with the regulations were made, the team investigated and advised the relevant businesses of the need to comply. We did not need to use our powers to impose administrative financial penalties or prosecute.

Because the anti-money laundering supervisory regime is required to be self-funding, we will be seeking fees from supervised businesses in summer 2009 as part of a system of registration.

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**We welcomed confirmation by the Court of Appeal in February 2009 that the terms used by banks for charging holders of personal current accounts for unarranged overdrafts can be assessed for fairness. The judgment confirmed our long-held interpretation of this important aspect of consumer law.**

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## Working with local authority Trading Standards Services

We sought to strengthen our relationship with local authority Trading Standards Services (TSS), our key partners in enforcing a wide range of laws.

### Partnership framework

We agreed a framework with TSS that establishes the principles by which we work together and provides a mechanism for coordinating our interactions at an operational level. It also clarifies how and when the OFT will represent TSS within central government and in interactions with other stakeholders.

### Intelligence management

We began a project to introduce an IT system and supporting

processes to ensure better sharing of intelligence between the OFT and TSS across the country. This will help us work with TSS to target businesses causing the greatest consumer detriment. It will also inform our market studies, consumer campaigns and business advice.

### Evaluating impact

We developed robust impact-assessment methodologies that provide TSS with an agreed and consistent means of estimating the consumer

savings that result from their fair trading work (see also page 46).

We also worked with a representative sample of TSS to apply the methodologies to their work. Using results from the sample group, we estimated that the work done by TSS across the UK to tackle unfair trading practices and to provide consumers with advice and assistance delivers direct consumer savings of at least £347m a year and that, on average, consumers save at least £6 for every £1 spent by TSS on this work.

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# Market tools, analysis and policy

## Market studies

### Exposing the costs of 'free' banking

Consumers are not aware of the true cost of apparently 'free' banking, we concluded in a July 2008 report on the personal current account (PCA) market.

Our market study found that the dominant model of not charging directly for common PCA services as long as consumers remain in credit gives the false impression that banking is free. It does not encourage consumers to shop around and drive competition.

We identified four key concerns:

- a lack of transparency in the key costs of PCAs, particularly fees

- complex charges that consumers have difficulty predicting or avoiding
- a need for simple mechanisms that would allow consumers to control or opt out of services for which they pay
- real and perceived problems in the PCA switching service which can unnecessarily deter consumers from changing provider.

We argued that intervention was needed to address these problems, and published a consultation on our proposed solutions.

See page 24 for information about our related investigation into the fairness of contract terms used by the banks for charging for unarranged overdrafts.



### **Raising standards in the homebuilding market**

Our study of the UK homebuilding market, which reported in September 2008, found that, while the sector was broadly competitive, many homebuyers were experiencing faults or delays. Since then we have been monitoring the industry's progress against certain milestones set out in the study for establishing a voluntary code to address our concerns.

### **Recommending regulation of the sale and rent-back market**

Sale and rent-back is a relatively new type of property transaction whereby firms buy homes from individuals, usually at a discount, and then allow those individuals to stay on in the property as tenants. An OFT report, published in October 2008, raised concerns that the market was not working well for consumers. Our market study, which was completed in just five months, found that some consumers may be entering into agreements when it may not be in their best interests to do so, and that there was the potential for consumers to be misled about the value of their property and the security of their tenure.

We recommended statutory regulation of the sector by the Financial Services Authority (FSA).

In response to our recommendations, the HM Treasury and FSA launched consultation documents on a possible regulation regime. We followed up the report by issuing formal notices to 16 sale and rent-back firms asking them to substantiate claims they had made in their adverts.

### **Scottish property managers under the spotlight**

In response to a submission from Consumer Focus Scotland (formerly the Scottish Consumer Council), we conducted a study of the market for residential property management services in Scotland.

We found that, while the majority of people were happy with their property manager or 'factor', around one in three were not. On top of this, two-thirds of consumers who had made a complaint about their management firm were dissatisfied with the way it was handled.

Our report, published in February 2009, recommended the early implementation of a voluntary regulation scheme, promoted

by the Scottish Government, with an independent complaints redress mechanism to ensure better accountability.

### **Studying the market for home buying and selling**

We launched a market study into UK home buying and selling services in February 2009, following two months of discussions with interested parties on its scope.

We are considering the effect of competition between service providers on both price and quality, and the extent to which new business models, including internet-based services, can effectively enter the market. We are also examining whether the existing regulatory framework provides the right balance between protecting consumers and ensuring that the market remains open to competition and innovation.

We aim to report our findings by the end of 2009.

### **Examining Isle of Wight ferry services**

Following a complaint from Andrew Turner MP, a petition of 8,000 signatures and some initial

research of our own, we launched a short and narrowly focused market study into Isle of Wight ferry services in February 2009.

The study's principal aim is to examine whether the market for ferry services operating between the Isle of Wight and the UK mainland is working well for consumers, and to decide whether a market investigation reference to the Competition Commission is appropriate. We intend to publish our findings in June 2009.

### **Gaining insights into local bus services**

We began a market study into local bus services in March 2009. Our objective is to gain further insights into why certain local bus markets operate as they do, and the relationship between competition, investment, prices

and service quality. We are also looking at the effects of local authority involvement in the market and of the coordination of timetables and ticketing.

### **Reviewing our market studies regime**

We held a conference in June 2008 to review the market studies regime five years after its implementation. This fulfilled a commitment we made in our 2008-09 annual plan. During the conference, we announced that we would revise our guidance on market studies. We intend to publish a draft for consultation in the first quarter of 2009-10.

Full details of OFT market studies can be found here: [www.of.gov.uk/advice\\_and\\_resources/resource\\_base/market-studies](http://www.of.gov.uk/advice_and_resources/resource_base/market-studies)

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**Our sale and rent-back market study found that some consumers may be entering into agreements when it may not be in their best interests to do so. We followed up by issuing formal notices to 16 sale and rent-back firms asking them to substantiate claims they had made in their adverts.**

## Market investigation, opinion and related work

### Reviewing newspaper and magazine distribution

As part of our wide-ranging review of competition in newspaper and magazine distribution in the UK, we issued four publications in October 2008. These were:

- guidance, in the form of an Opinion, to help publishers, distributors and wholesalers assess for themselves whether their newspaper and magazine distribution agreements comply with the Competition Act
- a recommendation to the Secretary of State for Business, Enterprise & Regulatory Reform (BERR) that wholesalers be released from the undertakings underpinning the National Newspapers Code of Practice. We argued that changes in the market since the Code's introduction meant these undertakings were no longer appropriate. In April 2009, the Secretary of State accepted our recommendation and decided to release wholesalers from the undertakings with effect from 20 October 2009

- a consultation on our proposal not to refer the newspaper and magazine supply sector to the Competition Commission. A key reason behind this was the positive market developments that could come about from parties applying the guidance in our Opinion in their own self-assessments
- an introductory overview of the key elements of the newspaper and magazine supply chains for those outside the industry.

### Professional rules

The OFT had expressed concern to the Faculty of Advocates that one of its professional rules, which stated that Advocates and Solicitor Advocates should not appear in court on behalf of the same client, could be anti-competitive and potentially in breach of the Competition Act. In 2008 the newly elected Dean of the Faculty of Advocates responded to the concerns of the OFT and others and withdrew this so called 'Mixed Doubles' rule, thus allowing clients to choose the combination of professional legal services that best meets their needs.

The OFT believes that this will lead to improved choice, and potentially lower legal costs for

clients, and allow Advocates and Solicitor Advocates to draw on their complementary strengths and expertise to offer new, improved advocacy services.

## Self-regulation

### Consumer Codes Approval Scheme

Our Consumer Codes Approval Scheme (CCAS) aims to promote and safeguard consumers' interests by helping them identify traders who promise to treat them fairly and to encourage businesses to improve their levels of customer service beyond the basic requirements of consumer law.

Each code passes through two stages of the approval process. Completing Stage One means that the code has met the OFT's core criteria in principle. The code gains official approval after Stage Two when the code's sponsor has demonstrated that:

- the code lives up to its promises
- it is being effectively implemented by all who claim to adhere to it
- consumer disputes are being properly resolved.

During the year, one code achieved OFT approval while two codes completed Stage One. In total, the OFT has approved eight codes, covering markets from estate agents to car repairing and servicing and direct selling. A further six codes have completed Stage One and are now working towards OFT approval.

The Debt Managers Standards Association became the first trade body within the debt management industry to secure OFT approval for its code of practice.

Meanwhile, the codes completing Stage One were:

- the Motor Industry Service and Repair Code, which is backed by the Society of Motor Manufacturers and Traders and the Retail Motor Industry Federation
- a code on the drawing up of wills sponsored by The Institute of Professional Willwriters (IPW). The IPW currently has 250 full members across the UK.

### Compliance partnerships

We consulted on a proposed policy to encourage bodies such as trade associations and OFT Approved Code sponsors to act as a first port

of call for resolving compliance issues relating to the Consumer Protection from Unfair Trading Regulations (CPRs – see page 23) and the Business Protection from Misleading Marketing Regulations (BPRs - see page 42).

Our objective is to maximise the use of 'established means' under the CPRs and BPRs to provide alternative ways of improving compliance without the need for legal enforcement. Our compliance partners would have tried and tested systems in place for controlling unfair commercial practices, although the OFT would continue to intervene in high-detriment cases.

The final set of principles is scheduled for publication in July 2009.

More details on compliance partnerships and our consultation can be found here: [www.of.gov.uk/advice\\_and\\_resources/resource\\_base/consultations/closed-awaiting/compliance](http://www.of.gov.uk/advice_and_resources/resource_base/consultations/closed-awaiting/compliance)

### Our approach to self regulation

In March 2009, we issued a discussion document on whether the OFT should make greater use

of self regulation and industry-led compliance initiatives in our consumer protection work. We wanted to find out if there were opportunities to build on our experience of working with industry bodies to address consumer problems through self regulation.

Alongside the discussion document, we published a paper on the economic principles behind self regulation and the factors that motivate different industries to implement such schemes.

To encourage debate, we held a major conference in March 2009. This brought together representatives from business, consumer and trade bodies, local authority Trading Standards Services, regulators, academics and other government departments. The views gathered at the event are being used to inform an OFT policy statement on our approach to self regulation and industry-led compliance, which will provide clarity for business and consumers. This will be published in September 2009.

## Financial services strategy

Delivering on a government commitment in the 2008 Pre-Budget Report, we developed a financial services strategy, and published it in April 2009 for consultation. A final plan developed from the strategy work will be published in July 2009, having taken account of consultation responses.

The strategy sets out the OFT's approach to our work across the financial services sector in response to the current economic crisis and details our short and long-term priorities.

## Competitive impact of Northern Rock

In March 2009, we published our assessment of the competitive impact on the UK banking sector of the public support received by Northern Rock.

The report fulfilled a commitment made in February 2008 by the

Chief Secretary to the HM Treasury, during the parliamentary debate of the Banking (Special Provisions) Act, which resulted in the bank being taken into temporary public ownership.

Our review covered the 12 months from February 2008 to February 2009. It took account of the constraints placed on Northern Rock by its 'competitive framework', which sought to mitigate any negative consequences on competition, and of the severe financial instability at the time. We concluded that, during the period under review, public support for Northern Rock did not have a significantly adverse impact on competition.

## Behavioural and consumer economics research

Behavioural and consumer economics continued to play an important role in our work. During 2008-09, we undertook

research to road test consumer-facing remedies, and continued to contribute to the debate through working with other UK government departments and peer agencies globally, and by producing various papers and presentations.

## Private actions and collective redress

Since publication of our recommendations to government on the steps we believe should be taken to make private actions in competition law more effective, the European Commission has published a White Paper on damages actions for breach of European competition rules. Many of the proposals in the paper are similar to those we advocated in our recommendations. We submitted our response to the paper in July 2008.

In March 2009, we responded to the European Commission's Green Paper on collective redress for breaches of consumer protection legislation. We supported a judicial collective redress mechanism

accessible by representative bodies on behalf of consumers. We also expressed interest in exploring some of the other suggestions in the paper, but as a complement to a judicial system.

Our view is that, without an effective mechanism at EU level, inconsistencies will remain in redress systems. This will stunt the growth of consumer confidence in shopping cross-border, and fail to provide the level playing field for businesses to trade cross-border.

# Advocacy, advice and guidance

## UK advocacy

The OFT carried out a broad range of advocacy work during the year in relation to our function under Section 7 of the Enterprise Act of giving advice to government, particularly where its activity and policy has an effect on markets.

## Environmental policy

We published research on the design of environmental product standards, such as minimum energy-efficiency targets and product-labelling schemes. The work provided guidance to policymakers on how product standards could affect competition, and how they could be designed to minimise the negative impacts.

## Health

We worked with the Department of Health on the development of principles and rules of cooperation and competition in the provision of NHS services, and on the establishment of the independent Cooperation and Competition Panel.

## Competition impact assessments

We advised on and monitored a large number of competition assessments completed by other government departments for new policies and initiatives that might have an impact on competition. We also raised awareness and understanding of competition law among other departments through general presentations and discussions.

## Government reviews

We were involved in a number of government reviews relating to competition issues. For example, we took part in steering groups for projects on trading funds, the public services industry, and business support schemes.

## Competition Forum

Working with the Department for Business, Enterprise & Regulatory Reform (BERR), we coordinated cross-government Competition Forum meetings to raise awareness of competition issues among policymakers.

During the year, these covered topics including government-sponsored horizontal cooperation agreements, and the impact of the economic downturn.

### **Government involvement in financial markets**

We were involved in assessing government involvement in financial markets. In particular, we published a report on the impact on competition of public support for Northern Rock (see page 36). We also considered wider government involvement in financial markets as part of our published strategy for the financial services sector to outline our plans for future work in this area (see page 36).

## **European advocacy**

### **Influencing competition policy in Europe**

Decisions made by the European Commission can have a significant impact on the OFT's activities and the direction of UK competition

policy. During the reporting period, we engaged with the European Commission on a range of critical issues including the:

- Article 82 Enforcement Priorities guidance concerning exclusionary abuses, published in late 2008
- White Paper on damages actions for breach of European competition rules
- review of block exemption regulations (such as those for motor vehicles, for vertical and horizontal cooperation agreements and for insurance).

### **Influencing consumer policy in Europe**

The European Commission is currently reviewing the eight key directives that make up the 'Consumer Acquis': these are the directives on doorstep selling, distance selling, package travel, unfair contract terms, timeshare, the sale of goods and associated guarantees, price indications and injunctions. The review is

intended to simplify and clarify consumer rights across EU member states.

A draft directive (the Consumer Rights Directive) which amalgamates four existing directives – on doorstep selling, distance selling, unfair contract terms and the sale of goods and associated guarantees – was published by the Commission in October 2008.

This is fundamental to the OFT's work as much of the consumer protection law that we enforce is drawn from the Consumer Acquis directives. We are working with Department for BERR and the Commission to help take the review forward and to ensure that the Consumer Rights Directive achieves its aims.



## Consumer advice



### Consumer Direct

Consumer Direct is a publicly funded national telephone and online advice service for consumers. It is managed by the OFT and delivered in partnership with local authority Trading Standards Services (TSS). It provides clear, practical and impartial advice to enable consumers to exercise their rights. It also benefits legitimate businesses, and the information collected helps the OFT, TSS and other bodies to build

intelligence, determine priorities and focus resources. As a result of its interventions, the OFT has estimated that Consumer Direct generated £127m in consumer benefits over 2008-09. Given its cost base of £14m, this represents a benefit to cost ratio of 9:1.

Consumer Direct advisors answered almost 1.6 million calls and emails in 2008-09, a level consistent with the previous year. These included 872,242 complaint cases, an increase of almost five per cent. More than 75 per cent

of calls were answered within 20 seconds and customer satisfaction levels remained high at 84 per cent.

Meanwhile, the Consumer Direct website welcomed over 1.4m visitors and recorded more than 7.8m page views.

In October 2008, as part of changes introduced under the Consumers, Estate Agents and Redress Act, Consumer Direct's remit was broadened to include advising energy and postal customers.

## Consumer education and awareness

### Scams Awareness Month

As part of our battle against mass-marketed scams, in February 2009 we again ran our annual Scams Awareness Month.

During the campaign, we worked with 93 TSS on 'Scamnesty', an initiative under which members of the public were encouraged to collect scam mailings and drop them into designated boxes at local libraries and other public areas. The mailings provided intelligence to the OFT and TSS. The activity

generated good national and local media coverage, and independent evaluation found that 36 million people were given an opportunity to see/hear our messages. Tracking has shown an increase in people's knowledge of types of scams and of where to go to for advice.

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## **Scams Awareness Month generated good national and local media coverage, and independent evaluation found that 36 million people were given an opportunity to see/hear our messages.**

### **Save Xmas**

For the second consecutive year, we coordinated the Save Xmas campaign. Through face-to-face sessions delivered over 10 weeks primarily by Citizens Advice, thousands of consumers received advice on saving schemes. See page 47 for information about an independent evaluation of the first year of the Save Xmas campaign.

### **Doorstep selling**

After changes to the law on doorstep selling came into force, we ran a campaign to raise consumer awareness of the law, particularly the widening of applicability of the seven-day cooling-off period. We ran advertisements

in local newspapers, and distributed information via TSS and other partners.

### **'Skilled to go'**

We worked with London South Bank University to produce educational materials to help students in further education develop their consumer skills, knowledge and confidence, alongside their literacy and numeracy. Branded as 'Skilled to go', the materials include games, quizzes, listening and video activities. Following the launch in June 2008, 3,900 teachers/learning managers and 50 per cent of adult learning institutions registered to use 'Skilled to go' materials.

## Business education

### Bus sector

We worked with the Department for Transport to produce updated competition guidance for the bus sector following changes introduced by the Local Transport Act which came into effect in February 2009. The guidance is mainly intended to assist local transport authorities and bus operators entering into, or participating in, a Quality Partnership Scheme or other bus partnership agreement.

### Minicab operators

Our business education work also included running a campaign to alert minicab operators to competition rules and the administrative and criminal penalties that apply. We launched the initiative after receiving reports that some minicab operators were entering into agreements with competitors to set prices. It was run in cooperation with the key trade bodies and licensing authorities.

### Business Protection from Misleading Marketing Regulations

After a consultation exercise involving key stakeholders including business groups and regulatory bodies, we produced and disseminated a guidance document, 'Business to Business Promotions and Comparative Advertisements – a quick guide to the Business Protection from Misleading Marketing Regulations'.

Our guide to the Business Protection from Misleading Marketing Regulations can be found here: [www.of.gov.uk/advice\\_and\\_resources/small\\_businesses/advertising/business-protection/](http://www.of.gov.uk/advice_and_resources/small_businesses/advertising/business-protection/)

### Quick guide

During the year, we updated our 'Quick guide to competition and consumer protection laws that affect your business'. We gave this publicity and a number of business groups agreed to distribute the guide to their members.

## General enquiries

The OFT's Enquiries and Reporting Centre (ERC) responds to telephone and written enquiries from consumers and businesses on almost every facet of the OFT's activities. During the year, it handled approximately 110,000 telephone calls and 22,000 pieces of written correspondence, and provided consistent, up-to-date and timely replies. The ERC achieved its commitment – made in our annual plan for 2008-09 – to respond to 90 per cent of all written correspondence within 10 working days.

The ERC analysed the information it gathers to inform our interventions. For instance, data gathered by the ERC was instrumental in our decision to launch a market study of Isle of Wight ferry services (see page 32).

## International

### ICPEN

With our counterpart organisation in the Netherlands, we led a working group of the International

Consumer Protection Enforcement Network (ICPEN) on best practice enforcement of consumer law. We also presented the OFT's integrated consumer/competition approach at the ICPEN annual conference in October 2008.

### Consumer Protection Cooperation

We continued to play an active role in the EU-wide Consumer Protection Cooperation (CPC) network as the Single Liaison Office and Competent Authority for the UK. We hosted a number of CPC Enforcement Forum meetings and prepared the first biennial report on the UK's experience of the CPC Regulation.

### OECD

We contributed to the work of the Organisation for Economic Cooperation and Development (OECD) through submitting papers to the OECD Competition Committee and participating in its meetings and roundtable discussions. Subjects we provided input on included market studies, resale price maintenance, buyer power, jurisdictional and sanctions

issues in relation to international cartels, early resolutions, bid rigging and the role of competition in financial markets.

### International Competition Network

We continued to play a leading role in the International Competition Network (ICN) as a member of the Steering Group. We began chairing a working group reviewing international practice on market studies. In addition, we participated in the ICN annual conference in June 2008 and played an active part in working groups on cartels, unilateral conduct, mergers, advocacy and competition policy implementation, as well as participating in the annual ICN International Cartels Workshop in October 2008 and the unilateral conduct workshop in March 2009.

### European Competition Network

We continued to be actively involved in the development of European competition policies through the European Competition Network.

# Improving the way we work

## Transparency

During 2008-09 we launched our 'Transparency project' to determine how we can provide better information to the outside world on our current work, how long it is likely to take, and how stakeholders can expect to be involved in our work.

In March 2009, we published a pilot update to our website providing more information on a selection

of our ongoing cases and projects, including information on team member contact details and, where possible, key milestones.

A formal consultation on further proposals for increasing our transparency was due to be published in the first quarter of 2009-10.

Information on our current cases can be found here: [www.offt.gov.uk/offt\\_at\\_work/current-cases/](http://www.offt.gov.uk/offt_at_work/current-cases/)

## Engagement

During the year, we were more systematic in our engagement with the many organisations that have an ongoing interest in the OFT's work.

We made a particular effort to build dialogue with business groups, setting up a number of high-level meetings to discuss policy, compliance and other areas of common interest. In January

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## National Audit Office report

In March 2009, the National Audit Office (NAO) published its progress report on the OFT's competition enforcement and market studies work. 'The Office of Fair Trading: Progress Report on Maintaining Competitive Markets' found that the OFT has improved the value for money it provides since the NAO's previous study in 2005. It reported that the OFT has focused its resources on areas where it can

have the most impact, become more proactive, and raised its profile by taking strong, high profile action against cases of anti-competitive behaviour.

The NAO also made some recommendations which we are working to implement. We are very committed to strengthening the skills and experience of our staff, and we welcome the NAO's recommendations for continual

improvement in attracting and developing talent. We agree that we can be clearer about the timescales and progress of our investigations, and will be consulting on proposals in this area shortly. We will also ensure that we continue to send out a clear public message about the importance of compliance with competition rules, including in smaller markets.

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2009, the Director-General of the Confederation of British Industry (CBI) met the OFT Board for a wide-ranging discussion about current economic and competition trends. We also arranged for the OFT Chairman, Chief Executive and senior directors to address business audiences including the Trade Association Forum, the CBI, the Retail 100, and the Whitehall & Industry Group.

Meanwhile, we continued to liaise closely with consumer groups including Which?, Citizens Advice and Consumer Focus on a wide range of issues from our Save Xmas campaign to our shared concerns about the effect on vulnerable consumers of the economic downturn.

In June 2008, OFT Chief Executive John Fingleton was named Consumer Champion of the Year by Which?

### **Engagement in the devolved administrations**

Through our office in Edinburgh, we continued to build our relationships with major stakeholders in Scotland. This helped ensure our

work took into account specific Scottish considerations.

For example, our UK-wide market studies on new homebuilding and on sale and rent-back paid careful attention to how these markets operated in Scotland, and an Edinburgh briefing during our study of personal current accounts enabled us to consult a wide range of financial services organisations in Scotland.

In October 2008, the OFT Board met in Edinburgh. In conjunction with this, Board members met with MSPs, as well as Scottish business and consumer groups. Also during the year, a secondee from Fife Trading Standards joined our representative in Scotland.

Following a review of our stakeholder relationships across all three devolved administrations, we decided to start managing engagement with stakeholders in Wales and Northern Ireland from our Edinburgh office. This will allow us to build on the experience of our work in Scotland, and enable us to communicate effectively with stakeholders on issues arising in these administrations.

### **Prioritisation**

In order to make best use of our resources in delivering outcomes for consumers, we need to make appropriate decisions about the projects and programmes of work we undertake.

In October 2008, following consultation, we published our prioritisation principles. They set out the factors we take into account when making prioritisation decisions, giving us a consistent language for thinking about and explaining our choices. They are not rigid criteria that make decisions for us in a mechanical way; each decision is reached on a case-by-case basis.

OFT prioritisation principles can be found here: [www.offt.gov.uk/advice\\_and\\_resources/publications/corporate/general/oft953](http://www.offt.gov.uk/advice_and_resources/publications/corporate/general/oft953)

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## Evaluation

Evaluating the impact on consumers of our work is important because it enables us to improve our performance and prioritise effectively. During the year, we continued to embed impact estimation and monitoring into projects as standard practice. We also commissioned independent research to evaluate the impact of key projects after completion. This work enabled us to estimate the direct financial benefits, and some of the wider benefits, of our interventions.

### **Our direct financial impact on consumers**

We estimate that the direct financial value to consumers of OFT work averaged over the three year period 2006-09 was £409m annually. This compares with an average annual spend of £53m, and means that for every £1 we received from the Exchequer, we delivered at least £8 of value to consumers. This puts us ahead of our target, agreed with HM Treasury, to deliver measured benefits to consumers of five times our annual budget over the 2008-11 period.

### **Deterrent effect of our competition enforcement work**

Research we published in 2007-08 suggested that the deterrent effect of our competition enforcement and merger control work could bring consumer savings several times the size of the savings resulting directly from this work. Over the period 2006-07 to 2008-09, we estimate the latter to be £209m per year.

### **Evaluating consumer protection action**

During the year, we developed a methodology for assessing the impact of consumer protection interventions by the OFT and by local authority Trading Standards Services (TSS). It enabled us to estimate the potential consumer detriment averted by OFT interventions to be £57m. We also used the methodology to work with TSS to estimate the impact of their enforcement action against unfair traders, and assisted them in producing a national impact estimate.

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### Extended warranties

In October 2008, we published an independent evaluation by consultants LECG of the impact of the Supply of Extended Warranties on Domestic Electrical Goods Order 2005. The Order obliges electrical retailers to provide clear information about the extended warranties they offer, as well as requiring certain cancellation and termination rights. A market study by the OFT in 2001 led to a Competition Commission investigation, following which the Government introduced the Order.

The LECG evaluation found that, since the introduction of the Order:

- fewer consumers were purchasing extended warranties at the point of sale
- 15 per cent of consumers were shopping around for extended warranties compared with four per cent in 2002

- consumers had already benefited by around £51m, and would continue to benefit in the future.

However, LECG also found a lack of compliance by some sellers and, as a result, we wrote to retailers to advise them of their obligations. We continue to monitor the market.

### Save Xmas

In November 2008, we published the results of an independent study by Ipsos MORI of our Save Xmas consumer education campaign. The study showed that the campaign had been successful in helping consumers understand their options when saving for Christmas. Specifically, it found that:

- the campaign reached an estimated 40,000 consumers in face-to-face sessions
- nine in ten people knew more about their savings options by the end of the session

- some months later, 38 per cent of people said they had changed the way they saved for important events as a result of their session – with many opening a savings account – and 71 per cent felt more confident about deciding how to save more generally.

### Payments Council

In March 2009, we published a review of the work of the Payments Council, the body set up in 2006 by the OFT-chaired Payment Systems Task Force to ensure that UK payment systems and services meet the needs of users, payment service providers and the wider economy. The review also looked at the impact of the recommendations of the Task Force itself.

The Review found that the Payments Council was an improvement on the previous arrangements, and that many of the Task Force's recommendations



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had led to real benefits for consumers. The most significant of these recommendations was that a new electronic payment scheme be introduced. This resulted in the Faster Payments service, which now clears payments within approximately two hours, seven days a week and 24 hours a day. Previously, payments took three working days to complete. We estimated that the net total financial benefit of the Faster Payments service over 10 years to the UK economy would be between £470m and £1.5bn.

To calculate how much of the estimated financial benefit of the Faster Payments service was attributable directly to the work of the OFT, we took account of the following facts:

- the service had not yet been rolled out across the whole industry
- the Task Force also involved retail, consumer, other government and industry bodies.

As a result, we estimated that the net annual benefit of the OFT's involvement in the Faster Payments service was around £14m to date (May 2008 - March 2009), with expected benefits ongoing.

### **Internet shopping and SME banking**

We continued to monitor the markets for internet shopping and small and medium-sized enterprise banking. We found that key changes in the internet shopping market broadly confirmed the

effects we predicted in our Positive Impact report for 2007-08. Data collected on the small and medium-sized enterprise banking market for 2008 was inconclusive, so we intend to repeat the data-gathering exercise in 2009 to gather evidence on the assumptions underlying the initial impact estimates.

You can find OFT Positive Impact reports, and other reports on evaluations of our work at: [www.of.gov.uk/advice\\_and\\_resources/publications/reports/Evaluating/](http://www.of.gov.uk/advice_and_resources/publications/reports/Evaluating/)

## Developing our people

### Investors in People

The OFT is accredited to the Investors in People (IIP) standard. The annual review by the IIP organisation in May 2008 found we were strong in most of the areas covered. However, the review identified several areas for improvement. These shortfalls were addressed through a comprehensive action plan. Following a review in May 2009, the assessor concluded that the OFT had fully met all IIP standards.

### Organisation development

At the start of 2008-09, we established a new Organisation Development function. Its job is to work with other functions including Human Resources, Internal Communications, Strategy and Planning, and our Executive Office to build the OFT's strength and adaptability as an organisation and develop our organisational culture.

### Recruitment

During the year we recruited 100 new permanent staff. At 31 March 2009, the OFT had 608 permanent staff compared with 587 at the

## Diversity of staff at 31 March 2009

	Women		From ethnic minorities <sup>†</sup>		With disabilities <sup>†</sup>	
	March 08	March 09	March 08	March 09	March 08	March 09
All staff	48.5%	<b>51.6%</b>	22.0%	<b>24.6%</b>	1.2%	<b>4.5%</b>
Senior civil servants	26.2%	<b>37.5%</b>	4.8%	<b>9.1%</b>	0%	<b>6.1%</b>
Senior managers	43.1%	<b>48.0%</b>	8.3%	<b>13.4%</b>	1.0%	<b>1.4%</b>
Executive staff	51.2%	<b>54.7%</b>	20.8%	<b>29.1%</b>	1.5%	<b>6.8%</b>
Clerical and support staff	56.0%	<b>58.4%</b>	31.0%	<b>52.0%</b>	1.2%	<b>4.0%</b>

<sup>†</sup> A possible reason for the increase in staff from ethnic minorities and staff with disabilities reported in the table above is the increased disclosure of information from employees. This information has been sourced from the OFT's 2009 Diversity survey, and new starter diversity information (Overall staff information captured - approximately 70 per cent).

## Diversity of staff recruited during 2008-09

Women	<b>60.2%</b>
People from ethnic minority groups	<b>10.8%</b>
People with disabilities	<b>3.2%</b>

4.3 per cent of recruits did not state their ethnic background.

7.5 per cent of recruits did not state disability.

same point in 2008. We adhere to the Civil Service Recruitment Principles (formerly Code) of open and fair competition and selection on merit. Twenty candidates were recruited during the year under the arrangements for permitted exceptions to the Principles.

### Diversity and equality

2008 to 2009 saw us continuing the progress in promoting diversity and equality that was reported in last year's annual report. We developed a diversity plan which aligns with the Civil Service Diversity Strategy that was launched in 2008. This plan is driving a range of actions which address behaviour, leadership, talent management and representation.

A possible reason for the increase in staff from ethnic minorities and staff with disabilities reported in the table above is the increased disclosure of information from employees.

This information has been sourced from the OFT's 2009 Diversity survey, and new starter diversity information (Overall staff information captured – approximately 70 per cent).

### Employee consultation

We continued our commitment to inform and consult with staff, ensuring that everyone receives information relevant to their work and the running of the OFT, and that there are sufficient opportunities to provide

feedback. An annual employee attitude survey, benchmarked against similar government organisations, provides further feedback to managers at every level. We have regular contact with the trade unions through HR (Employee Relations) and a series of meetings for the purposes of consultation and negotiation.

### Health and safety

We recognise and accept our legal responsibilities in relation to the health, safety and welfare of employees and for all people using our premises. We aim to comply with the Health and Safety at Work Act and all other legislation as appropriate.

# Operating and financial review

The activities of the OFT are funded by Parliamentary Vote. In 2008-09, the OFT had a Total Net Resource Requirement of £67.7m and a further budget allocation of £1.3m for capital expenditure. During the year OFT received HM Treasury agreement to move £0.6m of the budget allocation from resource to capital. This switch did not require Parliamentary approval.

During the year, actual outturn amounted to £57.9m against this estimate, an underspend of £9.8m (14 per cent).

OFT planned to spend £5.5m less than its Parliamentary Estimate. This related to the expected utilisation in 2008-09 of provisions created in 2007-08 and was necessary in order to live within all of its HM treasury control totals. In fact OFT only needed to use £1.9m of the provisions it had created, with £3.2m written back as follows:

- In the 2007-08 accounts a provision of £1.9m was set up on the grounds that the OFT had incorrectly recovered VAT on Consumer Direct expenditure. In January 2009 HM Treasury

ruled that the Consumer Direct contact centre service should be added to the Section 41 VAT refund scheme and that the ruling should apply retrospectively. As a result, the provision created in 2007-08 was reversed unused; and

- In 2007-08 the OFT created a provision for the cost of refurbishing Fleetbank House, in accordance with the requirements of a new lease agreement. In 2008-09, as a result of a combination of OFT's management action to bear down on costs and the prevailing economic environment, actual costs were considerably lower than expected. £1.3m of the 2007-08 provision was reversed unused in March 2009.

With both of these write-backs happening late in the financial year it was not possible for OFT to reverse cut-backs that had been made earlier in the year to avoid an overspend.

A further £1.2m of the underspend occurred on programme expenditure. OFT's programme

expenditure consists of a modest litigation budget, which is ring-fenced. An underspend against this budget cannot be used elsewhere.

£3.1m of the underspend relates to the OFT's day-to-day operations. This represents an underspend against available funding of 4.5 per cent. Within this, almost all budget holders reported small underspends and no significant causes were identified.

Net operating costs for the year were £56m, which the OFT incurred in pursuit of its objectives as detailed in the Statement of Net Operating Costs by Departmental Strategic Objectives. The difference between net resource outturn and net operating costs relates to allowable income collected by the OFT and surrendered to the Consolidated Fund.

OFT's income included £9.0m in respect of fees and charges levied on external customers in respect of license fees charged for the administration of the Consumer Credit Act 1974. The OFT also recognised £0.7m in respect of recovered legal costs, £2.3m from the Department for Business,

Enterprise and Regulatory Reform as a contribution to the development costs of Consumer Direct and £1.8m in merger fees.

The OFT invested £1.9m in capital expenditure in the year, the largest portion of which was spent on IT including hardware, software and assets under construction.

### **Auditors**

Our resource accounts have been audited by the Comptroller and Auditor General, who has been appointed under statute and is responsible to Parliament. The cost of the audit (notional fee) was £65,200, which included £5,200 for the first stage of the conversion to International Financial Reporting Standards.

The Accounting Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information, and to establish that the OFT's auditors are aware of that information. So far as he is aware, there is no relevant audit information of which the OFT's auditors are unaware.

Our internal audit was provided independently by Chiene + Tait.

### **Creditor payment, policy and performance**

The OFT pays suppliers in accordance with the Government's payment performance targets. These require us to pay all invoices not in dispute within 30 days, or within the agreed contractual terms. They also require us to pay 100 per cent of invoices, including disputed invoices, once the dispute has been settled on time within these terms. In 2008-09, the OFT paid 86.2 per cent of invoices within this target (2007-08: 99.0 per cent). Payments are only made once they have been properly authorised within the terms of the OFT's scheme for financial validation.

In the Autumn of 2008 the Government introduced a new target, which is to pay all suppliers within eight working days, after allowing two days on top of the invoice date to cover transit time. Measurement of this target commenced in January 2009 and for the three-month period to March 2009 the OFT paid 38.4 per cent of all undisputed invoices within this target. The OFT is aiming to improve on this over the course

of the next year, with changes to work processes and system enhancements.

One of the main reasons for the low performance against the 30-day and 8-day targets was the discovery of a control failure on Accounts Payable (see the Statement on Internal Control). As a result of this, special measures were put in place on a temporary basis, which have had the effect of slowing down the invoice authorisation process.

### **Report of personal data related incidents**

We, along with other government departments, are required by Cabinet Office to report annually on the following:

- protected personal data related incidents formally reported to the Information Commissioner's Office in the year
- centrally recorded protected personal data related incidents not formally reported to the Information Commissioner's Office in the year.

No protected personal data related incidents were reported to the Information Commissioner's Office or recorded centrally by the OFT during the reporting period.

Our most significant information security risks relate to the commercially sensitive data we handle and process in carrying out our investigatory and enforcement work.

We are continuing to work towards meeting the requirements of the Government's new Security Policy Framework, introduced by Cabinet Office in 2008, to improve the way we identify, assess and manage our information security risks.

### **Sickness absence**

After allowing for normal leave entitlement, 4.5 per cent of the total available working days were lost due to staff sickness absence.

# Focusing on the future

In the economic circumstances we now face, it remains vital that strong competition and consumer regimes protect consumers and legitimate businesses. Our mix of competition and consumer powers enables us to use a wide range of remedies to address problems in markets, and to take a highly flexible and proportionate approach to doing so.

We remain committed to taking strong action to promote open markets and protect consumers and are prepared to use our powers, including criminal enforcement powers, to their fullest extent. We will continue to do so wherever the circumstances justify it, both to prevent direct harm to consumers and to ensure the maximum educational and deterrent benefits follow from our actions. Adverse economic circumstances are not an excuse for businesses and individuals to disregard their legal obligations, to the detriment of consumers and competition.

We are working to anticipate the changes that the economic downturn may bring in terms of new risks to consumers and businesses. These may require us to change how we focus our work to achieve our mission. We are organising our resources accordingly.

There is potential for serious harm to the UK economy if we do not make our voice heard, and we have an important contribution to make to the process of developing the economy. We are focusing our work to ensure that the benefits of the UK consumer and competition regimes, and the role and functioning of markets, are properly understood by government and to ensure, where possible, that market failure is not addressed by regulation that restricts competition or consumer benefits disproportionately.

We will work to ensure we are as transparent as possible in our dealings with business. We will

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**Adverse economic circumstances are not an excuse for businesses and individuals to disregard their legal obligations, to the detriment of consumers and competition.**

aim to make both the nature of our work and its positive effects better understood, and will actively engage with business and trade associations on self-regulation in the consumer protection field, governance and compliance. The higher up the agenda we can raise these issues, the less likely we are to have to take enforcement action further down the line.

#### **Performance framework**

Our performance framework for 2009-10 remains as agreed under the Comprehensive Spending Review 2007. Both this framework and our aims and priorities for 2009-10 are set out in our annual plan.

OFT annual plan for 2009-10 can be found here:  
[www.offt.gov.uk/annualplan](http://www.offt.gov.uk/annualplan)





# Resource Accounts

These Resource Accounts have been prepared and published by the Office of Fair Trading (OFT). The Accounts have been prepared under a direction issued by HM Treasury in accordance with section 5(2) of the Government Resources and Accounts Act 2000. The Accounts demonstrate the resources that have been used to deliver the OFT's objectives. These Resource Accounts have been prepared in accordance with the guidance set out in the Government Financial Reporting Manual.

## Remuneration Report

### Auditable Sections

In accordance with the requirements of Schedule 7A of the Companies Act 1985 (as amended), only certain sections of the Remuneration Report have been subject to full external audit. These comprise the sections on salary and pension entitlements.

#### Remuneration Policy

The remuneration of senior civil servants is set by the Prime Minister following independent advice from the Review Body on Senior Salaries.

The Review Body also advises the Prime Minister from time to time on the pay and pensions of Members of Parliament and their allowances; on Peers' allowances; and on the pay, pensions and allowances of Ministers and others whose pay is determined by the Ministerial and Other Salaries Act 1975.

In reaching its recommendations, the Review Body has regard to the following considerations:

- The need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;
- Regional/local variations in labour markets and their effects on the recruitment and retention of staff;
- Government policies for improving the public services including the requirement on departments to meet the output targets for the delivery of departmental services;
- The funds available to departments as set out in the Government's departmental expenditure limits;
- The Government's inflation target.

The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

The Chairman's, Chief Executive's and non-executive board members' remuneration and other terms and conditions of service are determined by the Secretary of State for Business, Enterprise and Regulatory Reform.

The OFT remuneration committee determines the salaries paid to Senior Civil Servants within the OFT. During 2008-09 the committee comprised Philip Collins, John Fingleton, Bronwyn Curtis (until 30 September 2008) and Alan Giles.

Further information about the work of the Review Body can be found at [www.ome.uk.com](http://www.ome.uk.com)

### Service Contracts

Civil Service appointments are made in accordance with the Civil Service Commissioners' recruitment code, which requires appointment to be on merit on the basis of fair and open competition but also includes the circumstances when appointments may otherwise be made.

Unless otherwise stated, the officials covered by this report hold appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commissioners can be found at [www.civilservicecommissioners.gov.uk](http://www.civilservicecommissioners.gov.uk)

## Salary and Pension Entitlements

The following sections provide details of the remuneration and pension interests of the most senior management of the OFT:

### Remuneration

	2008-09		2007-08		
	Salary	Benefits in kind (rounded to the nearest £100)	Salary	Compensation for early retirement or loss of office	Benefits in kind (rounded to the nearest £100)
<b>Officials:</b>	<b>£000</b>	<b>£</b>	<b>£000</b>	<b>£000</b>	<b>£</b>
<b>John Fingleton</b> Chief Executive Officer	270-275	-	265-270	-	2,900
<b>Jonathan May</b> Executive Director, Policy and Strategy, and Markets and Projects	150-155	-	130-135	-	-
<b>Vivienne Dews</b> Executive Director, Corporate Services from 1 April 2008	135-140	-	-	-	-
<b>Sean Williams</b> Executive Director, Markets and Projects to 25 July 2008	60-65 Full year equivalent 160-165	-	135-140 Full year equivalent 160-165	-	-
<b>Bart Smith</b> Chief Operating Officer to 30 November 2007	-	-	85-90 Full year equivalent 120-125	-	-
<b>Christine Wade</b> Assistant Chief Executive, Consumer Advice and Trading Standards to 31 March 2008	-	-	90-95	50-55	-
<b>Vincent Smith</b> Senior Director for Competition to 30 April 2007	-	-	5-10 Full year equivalent 90-95	-	-
<b>Brian McHenry</b> General Counsel to 29 February 2008	-	-	90-95 Full year equivalent 100-105	140-145	-
<b>Sue Cook</b> Acting Director of Communications Division to 31 July 2007	-	-	25-30 Full year equivalent 65-70	-	-

	2008-09		2007-08		
	Salary	Benefits in kind (rounded to the nearest £100)	Salary	Compensation for early retirement or loss of office	Benefits in kind (rounded to the nearest £100)
<b>Non-Executive Board Members::</b>	<b>£000</b>	<b>£</b>	<b>£000</b>	<b>£000</b>	<b>£</b>
<b>Philip Collins</b> Chairman	170-175	-	170-175	-	1,400
<b>Lord Norman Blackwell</b>	20-25	-	15-20	-	-
<b>Alan Giles</b>	20-25	-	20-25	-	-
<b>Professor Frédéric Jenny</b>	20-25	-	20-25	-	-
<b>Anthony Lea</b>	20-25	-	-	-	-
<b>James Hart</b>	20-25	-	-	-	-
<b>Dr Philip Marsden</b>	10-15	-	-	-	-
<b>Bronwyn Curtis</b>	10-15	-	20-25	-	-
<b>Allan Asher</b>	-	-	15-20	-	-

Non-Executive Board Members' appointment details are as follows:

	<b>Date:</b> (A) appointed (R) reappointed	Appointment expires or date of leaving	Full year equivalent salary where applicable
<b>Philip Collins</b>	(A) 1 October 2005 (R) 1 October 2009	30 September 2009 30 September 2113	
<b>Lord Norman Blackwell</b>	(R) 1 April 2008	31 March 2010	
<b>Richard Whish</b>	(R) 1 April 2007	31 March 2009	
<b>Alan Giles</b>	(A) 1 April 2007	31 March 2011	
<b>Professor Frédéric Jenny</b>	(A) 1 April 2007	31 March 2012	
<b>Anthony Lea</b>	(A) 1 April 2008	31 March 2012	
<b>James Hart</b>	(A) 1 April 2008	31 March 2011	
<b>Dr. Philip Marsden</b>	(A) 1 October 2008	31 March 2013	£20k - £25k
<b>Bronwyn Curtis</b>	(A) 1 April 2007	Left 30 September 2008	£20k - £25k
<b>Allan Asher</b>	(A) 1 May 2003	31 March 2008	

## Salary

'Salary' includes gross salary; performance pay and bonuses; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances and any other taxable allowances or payments. This report is based on payments made by the OFT and thus recorded in these accounts.

## Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the OFT and treated by HM Revenue and Customs as a taxable emolument.

No Board members received any benefits in kind during 2008-09.

## Pension Benefits

<b>Officials:</b>	Accrued pension at pension age as at 31 March 2009 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31 March 2009	CETV at 31 March 2008 (recalculated)	CETV at 31 March 2008 (published)	Real increase in CETV
	£000	£000	£000	£000	£000	£000
<b>John Fingleton</b> Chief Executive Officer	10 – 15	2.5 – 5.0	164	110	121	38
<b>Jonathan May</b> Executive Director, Policy and Strategy, and Markets and Projects	60 – 65 plus lump sum of 180 – 185	0 – 2.5 plus lump sum of 2.5 – 5.0	1,394	1,283	1,356	18
<b>Vivienne Dews</b> Executive Director, Corporate Services from 1 April 2008	50 – 55 plus lump sum of 160 – 165	7.5 – 10.0 plus lump sum of 22.5 – 25.0	1,148	908	not applicable	167
<b>Sean Williams</b> Executive Director, Markets and Projects to 25 July 2008	0 – 5	0 – 2.5	29	20	21	7

Note to the table:

Due to errors in the 2007-08 CETV calculator used by the outsourced service provider, which were subsequently corrected after the 2007-08 Remuneration Report was published, the CETV figures at 31 March 2008 do not correspond to those published in the 2007-08 Remuneration Report.

Neither the Chairman nor the other non-executive Board members are members of PCSPS. They have no pension entitlements with OFT.

## Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes: either a 'final salary' scheme (**classic**, **premium** or **classic plus**); or a 'whole career' scheme (**nuvos**). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under **classic**, **premium**, **classic plus** and **nuvos** are increased annually in line with changes in the Retail Prices Index (RPI). Members who joined from October 2002, could opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (**partnership** pension account).

Employee contributions are set at the rate of 1.5 per cent of pensionable earnings for **classic** and 3.5 per cent for **premium**, **classic plus** and **nuvos**. Benefits in **classic** accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For **premium**, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike **classic**, there is no automatic lump sum. **Classic plus** is essentially a hybrid with benefits in respect of service before 1 October 2002 calculated broadly as per **classic** and benefits in respect of service from 1 October 2002 worked out as in **premium**. In **nuvos** a member builds up a pension based on his pensionable earnings during his period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3 per cent of their pensionable earnings in that scheme year and immediately after the scheme year ends the accrued pension is uprated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The **partnership** pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 per cent and 12.5 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where he does make contributions, the employer will match these up to a limit of 3 per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive on reaching pension age, or immediately on ceasing to be an active member of the scheme if already at, or over, pension age. Pension age is 60 for members of **classic**, **premium** and **classic plus** and 65 for members of **nuvos**.

Further details about the Civil Service pension arrangements can be found at the website [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk)

## Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are calculated in accordance with The Occupational Pension Scheme (Transfer Values) (amendment) Regulations and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

## Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

## Compensation for loss of office

No payments were made as compensation for loss of office to any Board Members during 2008-09.



**John Fingleton**  
Chief Executive and Accounting Officer  
9 July 2009

## Statement of Accounting Officer's Responsibilities

Under section 5 of the *Government Resources and Accounts Act 2000*, HM Treasury has directed the OFT to prepare, for each financial year, resource accounts detailing the resources acquired, held or disposed of during the year and the use of resources by the department during the year. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the OFT, the net resource outturn, resources applied to objectives, recognised gains and losses and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the *Government Financial Reporting Manual* and in particular to:

- observe the Accounts Direction issued by HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgments and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the *Government Financial Reporting Manual* have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

The HM Treasury has designated the Chief Executive as Accounting Officer of the OFT. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the OFT's assets, are set out in *Managing Public Money*, issued by HM Treasury.

## Statement on Internal Control

### Scope of responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the OFT's policies, aims and objectives set by the OFT Board, whilst safeguarding the public funds and departmental assets for which I am personally responsible, in accordance with the responsibilities assigned to me in *Managing Public Money* and under the principles of operation described in the code of good practice *Corporate Governance in Central Government Departments*, both produced by HM Treasury.

### Hierarchy of responsibility

The OFT Board, which has a majority of non-executive members, has overall responsibility for determining the OFT's system of internal control and for reviewing its effectiveness, and annually approves and reviews the risk policy and strategy. The Audit Committee, a sub-committee of the Board, advises me on the adequacy of the audit arrangements and on assurances received in respect of risk management and internal control. The Executive Committee (ExCo), which I chair, advises the Board and implements policies on risk management and internal control. ExCo advises the Board in monthly reports.

An Operations Committee, established in 2008, ensures that the OFT has the operational capability to deliver outputs that meet its objectives. Chaired by the Executive Director, Corporate Services, its responsibilities focus on financial matters, human resources, facilities, management information and performance against targets across the organisation. It also has a role in business planning and prioritisation.

The period from April 2008 saw a number of important staff changes. In April 2008 a new Executive Director (a qualified accountant) was appointed to oversee a revised Corporate Services organisation. The appointment was part of a high-level re-organisation of the OFT aimed at maintaining the OFT as a centre for excellence in consumer and competition policy and consumer protection. The Head of Finance post was covered on a temporary basis pending the appointment in August 2008 of a permanent replacement. This appointment has provided stability, and clear direction and leadership. As part of revisions to the structure, the OFT decided to bring the post of Head of Internal Audit in-house. An appointment was made in March 2009.



## The purpose of the system of internal control

The system of internal control is designed to manage risk rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness.

Risk to the OFT takes various forms: financial risk project/casework risk, risk to our partners and stakeholders, risk from policy changes or missed opportunities, and risk to our reputation. Such risks can affect our performance, staff, stakeholders and the consumers whom we champion.

The system of internal control is based on an ongoing process of identification and prioritisation of risks to the achievement of the OFT's policies, aims and objectives; evaluation of the likelihood of those risks being realised, and the impact should they be realised; and the management of those risks bearing in mind the principles of economy, efficiency and effectiveness. I am committed to the continuing development, monitoring and review of this system to ensure it continues to be effective and integral to OFT business processes. The system of internal control has been in place in OFT for the year ended 31 March 2009 and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance.

## Capacity to handle risk

### Framework

The OFT approach to risk was revised during late 2007 and the current framework introduces a number of key principles to risk management.

- Individual level responsibility
- Appropriate and effective escalation
- Cross office collaboration
- Effective recording and reporting

Risks are now recorded under one of three categories:

- Outcome: Those risks related to the quality and consistency of OFT work.
- Operational: Those risks related to delivery.
- Reputational: Those risks related to external reputation and relationships.

## Risk management and reporting

As a result of detailed discussions and workshops with senior colleagues, the Executive Committee has identified those risks which it considers to be the most significant to the organisation. Each of these risks is individually owned by an ExCo member. The Operations Committee regularly reviews risks to ensure that appropriate mitigation is in place.

Below this, Groups maintain risk registers that record workstream level risks; these are updated monthly. The most significant risks from Group level registers are selected by Executive Directors to be reported to the Board as part of the Executive Report to the Board.

Corporate risks are updated on a quarterly basis and reported to the Board as part of the quarterly Executive report to the Board. Updates on the management of corporate risks are also reported to the Audit Committee biannually. Area level risks are reported to the Board monthly as part of the Executive Report to the Board.

The reporting of corporate risk to the Board on a quarterly basis is one of the key developments over the past year to ensure the embedding of a risk management culture within the OFT. Other developments include:

- New Executive Report to the Board - this provides the board with details of Area level risks, mitigations and current status.
- Risk workshops to further embed risk management procedures across the office, including the roll out of targeted workshops to help groups gain a greater understanding of the risks relevant to their work.
- The embedding of risk in the annual business planning cycle. This will lead to more comprehensive performance reporting in the forthcoming year.

## Audit Committee

The Audit Committee was restructured in 2008 to bring it in line with guidance in the HM Treasury Audit Committee Handbook, with the Committee being formally constituted as a Committee of the Board. In line with best practice, a non-executive Board member, with recent and relevant finance experience, was appointed as the new Chair. The other members are non-executive Board members.

## Information security

In March 2008, Cabinet Office introduced requirements across government for data handling and information security, to be implemented by June 2009. The OFT devised a structured programme of improvements to meet Cabinet Office requirements. Progress is monitored by the Audit Committee. 8 per cent of requirements are outstanding but are being progressed, and these will be fully implemented by December 2009.

## Review of effectiveness

As Accounting Officer, I also have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within the OFT who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letters and other reports. I have also been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board, the Executive Committee, and the Audit Committee which reviews, and where it considers necessary, advises on mechanisms for the assessment and management of internal control and risk.

Internal Audit completed its programme of work for the period ended 31 March 2009 in accordance with the Annual Plan 2008-09. It was the opinion of the Internal Audit that management has substantial assurance that the internal controls and governance frameworks which it operates are sufficient to ensure the efficient and effective operation of the organisation and that the strategic and operational risks to which the organisation is exposed are being managed.

## Significant Internal Control Issues

The Statement on Internal Control (SIC) for 2007-08 referred to a detailed programme of remedial work to address a number of issues of concern identified through Internal Audit's work. The OFT continued to make efforts to improve control in financial management. However during the year a control failure in Accounts Payable led to a loss being sustained, as described in note 28 to the accounts. Immediate remedial action was taken to restore control in this area to a satisfactory level. In order to provide a continuing structured, comprehensive programme of improvements, a Finance Improvement Plan, agreed by the Audit Committee, is being implemented. The Plan covers all aspects of the OFT's financial management arrangements.

The 2007-08 SIC also referred to continuing engagement with HM Treasury about the extent of VAT liabilities in respect of VAT previously reclaimed on Consumer Direct expenditure, provision for which had resulted in an excess vote qualification to the 2007-08 Accounts. HM Treasury subsequently granted retrospective approval for the OFT to reclaim the VAT.



**John Fingleton**  
Chief Executive and Accounting Officer  
9 July 2009

## The Certificate of the Comptroller and Auditor General to the House of Commons

I certify that I have audited the financial statements of the Office of Fair Trading for the year ended 31 March 2009 under the Government Resources and Accounts Act 2000. These comprise the Statement of Parliamentary Supply, the Operating Cost Statement and Statement of Recognised Gains and Losses, the Balance Sheet, the Cash flow Statement and the Statement of Net Operating Costs by Departmental Strategic Objectives and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

### Respective responsibilities of the Accounting Officer and auditor

The Accounting Officer is responsible for preparing the Annual Report, which includes the Remuneration Report, and the financial statements in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and statutory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with HM Treasury directions issued under the Government Resources and Accounts Act 2000. I report to you whether, in my opinion, the information which comprises The Board, Operating and Financial Review and Focusing on the Future sections, included in the Annual Report, is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Department has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Department's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or to form an opinion on the effectiveness of the Department's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the remaining sections of the Annual Report and the unaudited part of the Remuneration Report. I consider the implications for my certificate if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

### Basis of audit opinion

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgements made by the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Department's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

## Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Government Resources and Accounts Act 2000 and directions made thereunder by the HM Treasury, of the state of the Department's affairs as at 31 March 2009, and the net cash requirement, net resource outturn, net operating cost, net operating costs applied to departmental strategic objectives, recognised gains and losses and cash flows for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the HM Treasury directions issued under the Government Resources and Accounts Act 2000; and
- information which comprises The Board, Operating and Financial Review and Focusing on the Future sections, included in the Annual Report, is consistent with the financial statements.

## Opinions on Regularity

In my opinion, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

## Report

I have no observations to make on these financial statements.

**Amyas C E Morse**  
Comptroller and Auditor General  
National Audit Office  
151 Buckingham Palace Road  
Victoria  
London  
SW1W 9SS  
16 July 2009

## Statement of Parliamentary Supply

### Summary of Resource Outturn for the year ended 31 March 2009

	2008-09						2007-08
	Estimate			Outturn			Prior-year outturn
	Gross expenditure	A-in-A	Net total	Gross expenditure	A-in-A	Net total	
	£000	£000	£000	£000	£000	£000	£000
<b>RFR : Advancing and safeguarding the economic interests of UK consumers</b>							
<b>Total Resources</b>							
(note 2)	80,831	13,128	67,703	70,075	12,119	57,956	9,747
<b>Net cash requirement for the year ended 31 March 2009</b>							
<b>Net Cash Requirement</b>							
(note 4)	-	-	72,913	-	-	63,271	9,642
							72,251

### Summary of income payable to the Consolidated Fund

The following income relates to the OFT and is payable to the Consolidated Fund (cash receipts being shown in italics):

		2008-09 Income	Forecast Receipts	2008-09 Income	Outturn Receipts
	Note	£000	£000	£000	£000
<b>Total</b>	5	3,200	<i>3,200</i>	1,792	<i>2,020</i>

An explanation of the variance between Estimate and Outturn is given in the Operating and Financial Review. The notes on pages 72 to 88 form part of these accounts.

## Operating Cost Statement for the year ended 31 March 2009

		2008-09	2007-08
	Note	£000	as re-stated £000
<b>Administration Costs:</b> Request for Resources 1:			
Staff Costs	9	36,566	35,759
Other Administration Costs	10	32,713	40,070
Operating Income	12	(14,049)	(8,996)
<b>Programme Costs:</b> Request for Resources 1:			
Expenditure	11	796	2,050
<b>Net Operating Cost</b>	3	56,026	68,883

## Statement of Recognised Gains and Losses for the year ended 31 March 2009

		2008-09	2007-08
	Note	£000	£000
Actuarial gain/(loss)	18(d)	80	(6)
<b>Total gains/(losses) since last financial statements</b>		80	(6)

All income and expenditure are derived from continuing operations.

The notes on pages 72 to 88 form part of these accounts.

## Balance Sheet as at 31 March 2009

	31 March 2009			31 March 2008 as re-stated	
	Note	£000	£000	£000	£000
<b>Fixed assets:</b>					
Tangible assets	13		6,719		7,137
Intangible assets	14		358		235
<b>Current assets:</b>					
Debtors	15	2,899		4,980	
Cash at bank and in hand	16	892		384	
		3,791		5,364	
<b>Creditors (due within one year)</b>	17	(8,736)		(10,951)	
<b>Net current liabilities</b>			(4,945)		(5,587)
Total assets less current liabilities			2,132		1,785
Provisions for liabilities and charges	18	(870)		(5,778)	
			(870)		(5,778)
Total assets less total liabilities before pension liabilities			1,262		(3,993)
Pension liabilities	18(d)	(1,411)		(1,498)	
			(1,411)		(1,498)
<b>Total assets less total liabilities after pension liabilities</b>			<b>(149)</b>		<b>(5,491)</b>
<b>Taxpayers' Equity:</b>					
General Fund	19		(1,133)		(6,477)
Revaluation reserve	20(a)		975		975
Donated asset reserve	20(b)		9		11
			<b>(149)</b>		<b>(5,491)</b>

The notes on pages 72 to 88 form part of these accounts.



**John Fingleton**  
Chief Executive and Accounting Officer  
9 July 2009

## Cash Flow Statement for the year ended 31 March 2009

		<b>2008-09</b>	<b>2007-08</b>
	<b>Note</b>	<b>£000</b>	<b>£000</b>
Net cash outflow from operating activities	21(a)	(60,313)	(60,305)
Capital expenditure and financial investments	21(b)	(1,941)	(1,488)
Payments of amounts due to the Consolidated Fund		(2,102)	(10,060)
Financing	21(c)	64,864	70,608
<b>Increase/(decrease) in cash in the year</b>	<b>21(d)</b>	<b>508</b>	<b>(1,245)</b>

The notes on pages 72 to 88 form part of these accounts.

## Statement of Net Operating Costs by Departmental Strategic Objectives for the year ended 31 March 2009

Request for Resources: Advancing and safeguarding the economic interests of UK consumers

	<b>2008-09</b>			<b>2007-08 as re-stated</b>		
	<b>Gross £000</b>	<b>Income £000</b>	<b>Net £000</b>	<b>Gross £000</b>	<b>Income £000</b>	<b>Net £000</b>
<b>Objectives:</b>						
Deliver high impact outcomes	24,332	(11,520)	12,812	25,858	(181)	25,677
Centre of intelligence and excellence	7,390	(31)	7,359	8,441	(5,572)	2,869
Work in partnership	22,034	(2,348)	19,686	21,330	(2,925)	18,405
Develop OFT as an organisation	16,319	(150)	16,169	22,250	(318)	21,932
<b>RfR Total</b>	<b>70,075</b>	<b>(14,049)</b>	<b>56,026</b>	<b>77,879</b>	<b>(8,996)</b>	<b>68,883</b>

Our Methodology for preparing this statement is set out in accounting policy note 1.18.

The notes on pages 72 to 88 form part of these accounts.



## Notes to Resource Accounts

### 1. Statement of accounting policies

These financial statements have been prepared in accordance with the 2008-09 Government Financial Reporting Manual (FRoM) issued by HM Treasury. The accounting policies contained in the FRoM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector.

In addition to the primary statements prepared under UK GAAP, the FRoM also required the OFT to prepare two additional primary statements. The Statement of Parliamentary Supply and supporting notes show Outturn against Estimate in terms of the net resource requirement and the net cash requirement. The Statement of Net Operating Cost by Departmental Strategic Objectives and supporting notes analyse the OFT's income and expenditure by the objectives agreed with HM Treasury.

Where the FRoM permits a choice of accounting policy, the accounting policy which has been judged to be most appropriate to the particular circumstances of the OFT for the purpose of giving a true and fair view has been selected. The OFT's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

#### 1.1 Accounting convention

The accounts have been prepared on an accruals basis under the historic cost convention.

#### 1.2 Tangible fixed assets

Assets, including leasehold improvements, are included at cost in the month of purchase. Depreciated historic cost is used as a proxy for current value, as annual revaluations would not create a material difference to the carrying value of the assets. All tangible fixed assets are reassessed to current value every three years. Grouping of assets which would otherwise fall below the OFT's capitalisation threshold, is only permitted where their omission would have a significant impact on the true and fair status of the accounts.

#### 1.3 Donated assets

Donated tangible assets are capitalised at their current value on receipt and this value is credited to the Donated Asset Reserve. Subsequent revaluations are also taken to this reserve. Each year, an amount equal to the depreciation charge on the asset is released from the Donated Asset Reserve to the operating cost statement.

#### 1.4 Intangible fixed assets

Purchased computer software licences are capitalised as intangible fixed assets where expenditure of £5,000 or more is incurred. Except where reliable evidence of current value cannot be readily ascertained, these are reassessed to current value every three years. Software licences are amortised over the shorter of the term of the licence and the useful economic life.

#### 1.5 Depreciation

Tangible fixed assets are depreciated at rates calculated to write them down to estimated residual value on a straight-line basis over their estimated useful lives. Assets in the course of construction are not depreciated until the asset is brought into use. Asset lives are normally in the following ranges:

Fixtures and fittings	- 9 years
Furniture	- 7 to 10 years
IT Hardware	- 3 to 5 years
Software	- 5 years

Leasehold improvements - amortised over the term of the lease

#### 1.6 Research and development

Expenditure on research is charged to the Operating Cost Statement as incurred. Expenditure on development in connection with a product or service which is to be supplied on a full cost recovery basis is capitalised if it meets the criteria specified in SSAP 13. Other development expenditure is capitalised if it meets the criteria specified in the FRoM which are adapted from SSAP 13 to take account of the not-for-profit context. Expenditure which does not meet the criteria for capitalisation is charged to the Operating Cost Statement as it is incurred.

#### 1.7 Operating income

Operating income is income which relates directly to the operating activities of the OFT. It predominantly comprises fees and charges to external customers under the Consumer Credit Act 1974. It includes both income appropriated in aid of the Estimate and due to the Consolidated Fund, which in accordance with the FRoM is treated as operating income.

Income is analysed in the notes between that which, under the administration cost-control regime, is allowed to be offset against gross administration costs in determining the outturn against the administration cost limit, and that which is not.

Income received which relates to services not carried out by the end of the financial year, is moved to the Balance Sheet as deferred income and released when the service is subsequently provided.

## **1.8 Consolidated Fund Extra receipts**

### **Competition Act 1998 (CA98) Penalties**

The CA98 confers responsibility on the OFT for the imposition and collection of penalties on undertakings where it is found that an agreement has infringed the Chapter I prohibition or conduct has infringed the Chapter II prohibition, and that infringement has been committed intentionally or negligently. Penalties collected are paid into the Consolidated Fund.

As the OFT has no beneficial interest in the impositions, they are not processed through the Operating Cost Statement but are, instead, accounted for through the Balance Sheet. Penalties are recognised as a debtor once the period for making an appeal in respect of the penalty has expired and no appeal has been made or, where an appeal is made, once it has been determined. At the same time, a corresponding creditor is raised to recognise the obligation of onward transmission.

### **Bad and doubtful debts – CA98 Penalties**

A review is made annually of all outstanding CA98 Penalties debts, to determine recoverability and a provision is set up in the event that recovery of the debt is in doubt. The provision serves to reduce the debtor in the Balance Sheet, but also reduces the creditor for onward transmission. The creation of this provision and any subsequent movement, or any write-offs which have not been previously provided for, do not score in the Operating Cost Statement.

### **Bad and doubtful debts – trade and other debtors**

A review is made annually of all outstanding trade and other debtors, to determine recoverability and a provision is set up in the event that recovery of the debt is in doubt.

## **1.9 Administration and programme expenditure**

The Operating Cost Statement is analysed between administration and programme income and expenditure. Administration costs reflect the costs of running the OFT. Programme costs relate to litigation costs arising from OFT decisions. The classification of expenditure and income as administration or programme follows the definition of administration costs set by HM Treasury.

### **1.10 Capital charge**

A charge, reflecting the cost of capital utilised by the OFT, is included in operating costs. The charge is calculated at the real rate set by HM Treasury (currently 3.5 per cent) on the average carrying amount of all assets less liabilities, except for donated assets, cash balances on non-interest bearing OPG accounts and on balances with the Consolidated Fund where the interest rate is nil.

### **1.11 Foreign exchange**

Transactions which are denominated in a foreign currency are translated into sterling at the exchange rate ruling on the date of the transaction.

### **1.12 Pensions**

Most past and present employees are covered by the provisions of the Principal Civil Service Pension Schemes (PCSPS). The defined benefit schemes are unfunded and non-contributory except in respect of dependants' benefits. The OFT recognises the expected cost of these elements on a systematic and rational basis over the period during which it benefits from employees' services by payment of charges calculated on an accruing basis. Liability for payment of future benefits is a charge on the scheme.

In respect of the defined contribution schemes, the OFT recognises the contributions payable for the year.

The OFT has a separate scheme for the previous Chairman and Director Generals, which is 'by analogy', or similar to, the PCSPS. Provision has been made for the future cost of benefits under this scheme. The current Chairman and the other non-executive Board members are not members of the PCSPS and do not receive pension benefits from the OFT.

### 1.13 Early departure costs

The OFT is required to meet the additional cost of benefits beyond the normal PCSPS benefits in respect of employees who retire early, unless the retirement is on approved medical grounds. The OFT provides in full for the costs when early retirement for an individual is agreed and takes effect.

### 1.14 Provisions

The OFT provides for legal or constructive obligations which are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant, the estimated risk-adjusted cash flows are discounted using the real rate set by HM Treasury (currently 2.2 per cent), where it is not significant estimated cash flows are not discounted.

Financing charges in the Operating Cost Statement in respect of end of lease provisions will include adjustments to amortise one year's discount rate and restate liabilities to current price levels.

### 1.15 Contingent liabilities

In addition to contingent liabilities disclosed in accordance with FRS 12, the OFT discloses for parliamentary reporting and accountability purposes certain statutory and non-statutory contingent liabilities where the likelihood of a transfer of economic benefit is remote but which have been reported to Parliament in accordance with the requirements of *Managing Public Money*.

### 1.16 Taxation

Most of the OFT's activities are outside the scope of VAT and, in general, output tax does not apply and input tax on purchases is not recoverable. Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase costs of fixed assets. Where output tax is charged or input tax is recoverable, the amounts are stated net of VAT.

### 1.17 Operating leases

Operating lease rentals are charged to the Operating Cost Statement in equal amounts over the lease term.

### 1.18 Statement of Parliamentary Supply and Statement of Net Operating Costs by Departmental Strategic Objectives

The information contained in the Statement of Parliamentary Supply and associated notes is based on the Request for Resources information that forms part of the parliamentary approval process,

Administration costs, programme costs and related receipts were attributed to the annual plan objectives for 2008-09. Capital is employed exclusively for administration purposes, therefore its distribution between objectives is not markedly different to that of the gross administration costs.

### 1.19 Comparative amounts

During 2008-09 discussions were held with HM Treasury and the National Audit Office and it was concluded that as the OFT has no beneficial interest in Competition Act 1998 Penalties they should not be included in the Operating Cost Statement, but taken straight to the Balance Sheet awaiting transfer to the Consolidated Fund. As a result of this change of policy, the 2007-08 accounts have been restated, where applicable, to remove these items from the Operating Cost Statement and to amend their Balance Sheet treatment. This has had no effect on Taxpayers' Equity. The impact of this policy change is as follows:

	<b>£000</b>
2007-08 operating income as reported in 2007-08 accounts	(9,033)
Remove CA98 Penalties income	37
<b>2007-08 operating income as re-stated for 2008-09 accounts</b>	<b>(8,996)</b>

This change also impacts on the supporting notes to the accounts where prior year comparatives are involved, specifically notes 3(a), 3(b), 6, 12(a), 19 and 21(a).

In addition, in the 2007-08 published accounts the Consolidated Fund Supply Debtor was disclosed as a negative creditor, rather than in the debtors analysis and this has been amended. Furthermore, early departure costs have been moved from Wages and Salaries (note 9) to Other Staff Costs (note 10).

**2. Analysis of net resource outturn by section**

	2008-09							2007-08
	Admin	Other current	Gross resource expenditure	A-in-A	Net total	Estimate	Net total outturn compared to estimate	Prior-year outturn
	£000	£000	£000	£000	£000	£000	£000	£000
Resource Outturn	69,279	796	70,075	(12,119)	57,956	67,703	9,747	77,879

The OFT has only one Request for Resources for control purposes and Parliamentary approval.

**3. Reconciliation of outturn to net operating cost and against Administration Budget****3(a) Reconciliation of net resource outturn to net operating cost**

		2008-09	2007-08 as re-stated
	Note	£000	£000
Net Resource Outturn	2	57,956	77,879
Non-Supply income (CFER)	5	(1,930)	(8,996)
<b>Net operating cost</b>		<b>56,026</b>	<b>68,883</b>

**3(b) Outturn against final Administration Budget**

	2008-09		2007-08
	Budget	Outturn	Outturn
	£000	£000	£000
Gross Administration Budget	78,870	69,279	75,829
Income allowable against the Administration Budget	(13,128)	(12,119)	-
<b>Net outturn against final Administration Budget</b>	<b>65,742</b>	<b>57,160</b>	<b>75,829</b>

#### 4. Reconciliation of resources to cash requirement

		Estimate	Net total outturn	Net total outturn compared with estimate saving/ (excess)
	Note	£000	£000	£000
<b>Resource Outturn:</b>	2	67,703	57,956	9,747
<b>Capital</b>				
Acquisition of fixed assets	13, 14	1,364	1,941	(577)
Investments	-	-	-	-
<b>Non-operating A-in-A:</b>				
Proceeds of fixed asset disposals		-	-	-
<b>Accruals adjustments:</b>				
Non-cash items		(2,673)	771	(3,444)
Changes in working capital other than cash		6,519	641	5,878
Changes in creditors falling due after more than one year		-	-	-
Use of provisions		-	1,962	(1,962)
<b>Net Cash Requirement</b>		<b>72,913</b>	<b>63,271</b>	<b>9,642</b>

During the year OFT applied to HM Treasury to move £600,000 from resource to capital. This was agreed, although a supplementary estimate was not submitted on advice from HM Treasury. The total net cash requirement was not altered, but the resource outturn estimate was decreased by £600,000 and the capital estimate was increased by the same amount.

#### 5. Analysis of income payable to the Consolidated Fund

In addition to appropriations in aid, the following income relates to the OFT and is payable to the Consolidated Fund (cash receipts being shown in italics):

		Forecast Income	2008-09 Receipts	Outturn Income	2008-09 Receipts
	Note	£000	£000	£000	£000
Operating income and receipts – excess A-in-A		-	-	-	-
Other operating income and receipts not classified as A-in-A		3,200	<i>3,200</i>	1,930	<i>1,950</i>
	6	3,200	<i>3,200</i>	1,930	<i>1,950</i>
Non-operating income and receipts – excess A-in-A		-	-	-	-
Other non-operating income and receipts not classified as A-in-A		-	-	-	-
Other amounts collectable on behalf of the Consolidated Fund		-	-	(138)	<i>70</i>
<b>Total income payable to the Consolidated Fund</b>		<b>3,200</b>	<b><i>3,200</i></b>	<b>1,792</b>	<b><i>2,020</i></b>

The other amounts collectable on behalf of the Consolidated Fund in the Outturn Income column is negative because of an uncollectable CA98 penalty of £128k and a reporting error of £10k from 2006-07 discovered during the year.

## 6. Reconciliation of income recorded within the Operating Cost Statement to operating income payable to the Consolidated Fund

		2008-09	2007-08 as re-stated
	Note	£000	£000
Operating income		14,049	8,996
Income authorised to be appropriated-in-aid		(12,119)	-
<b>Operating income payable to the Consolidated Fund</b>	5	<b>1,930</b>	<b>8,996</b>

## 7. Non-operating income – excess A-in-A

The OFT does not have any non-operating income that is in excess of Appropriations-in-Aid.

## 8. Non-operating income not classified as A-in-A

The OFT does not have any non-operating income not classified as Appropriations-in-Aid

## 9. Staff numbers and related costs

**Staff costs comprise:**

	2008-09			2007-08 as re-stated
	Total	Permanently employed staff	Others	Total
	£000	£000	£000	£000
Wages and salaries	29,515	25,343	4,172	28,967
Social security costs	2,261	2,261	-	2,149
Pension costs	5,135	5,135	-	4,750
<b>Sub-total</b>	<b>36,911</b>	<b>32,739</b>	<b>4,172</b>	<b>35,866</b>
Less recoveries in respect of outward secondments	(345)	(345)	-	(107)
<b>Total net costs*</b>	<b>36,566</b>	<b>32,394</b>	<b>4,172</b>	<b>35,759</b>

\* Of the total, nil has been charged to capital.

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but OFT is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the scheme as at 31 March 2007 and details can be found in the resource accounts of the Cabinet Office: Civil superannuation ([www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk))

For 2008-09, employer contributions of £5,135,201 were payable to the PCSPS (2007-08: £4,749,933) at one of four rates in the range 17.1 per cent to 25.5 per cent of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions usually every four years following a full scheme valuation. From 2009-2010, the rates will be in the range 16.7 per cent to 24.3 per cent. The contribution rates are set to meet the cost of the benefits accruing during 2008-09 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Employees can opt to open a **partnership** pension account, a stakeholder pension with an employer contribution. Employer's contributions of £5,788 (2007-08: nil) were paid to one or more of a panel of four appointed stakeholder pension providers. Employer contributions are age-related and range from 3 to 12.5 per cent of pensionable pay. Employers also match employee contributions up to 3 per cent of pensionable pay. In addition, employer contributions of 0.8 per cent of pensionable pay were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees.

Contributions due to the partnership pension providers at the balance sheet date were nil (2007-08: nil). Employer contributions prepaid at that date were nil (2007-08: nil).

## Number of persons employed

The average number of whole-time equivalent persons employed during the year was as follows:

	2008-09			2007-08 as re-stated
	Total	Permanent staff	Others	Total
Markets and Projects	237	206	31	282
Communication	25	21	4	24
Policy and Strategy	125	113	12	155
Executive Office	37	34	3	31
Corporate Services – internal functions	118	84	34	93
Corporate Services – external functions	155	128	27	162
<b>Total</b>	<b>697</b>	<b>586</b>	<b>111</b>	<b>747</b>

The figures for 2008-09 are averaged over the whole twelve month period. The 2007-08 figures were based on the staff in post at the end of March 2008 only and have been re-stated to bring the analysis into line with the reporting structure for 2008-09.

## 10. Other Administration Costs

	2008-09		2007-08 as re-stated	
	£000	£000	£000	£000
<b>Rentals under operating leases:</b>				
Hire of plant and machinery	105		115	
Other operating leases	4,062		4,136	
		4,167		4,251
Research expenditure		825		799
<b>Non-cash items:</b>				
Depreciation of fixed assets -				
Tangible fixed assets	2,112		2,037	
Intangible fixed assets	121		79	
Released from the donated asset reserve	(2)		(8)	
Loss on disposal of fixed assets	2		41	
Cost of capital credit	(116)		(105)	
Auditor's remuneration and expenses	65		54	
Provisions -				
Amounts provided for in year	475		4,782	
Amounts not required written back	(3,288)		(3,037)	
Unwinding of discount on provisions	-		102	
Total non-cash costs		(631)		3,945
<b>Other expenditure:</b>				
Consumer Direct Contact Centre	12,202		10,114	
Rates	1,255		1,203	
Consultancies	1,887		3,007	
Training	929		1,331	
Publicity and campaigns	2,460		5,602	
Maintenance	2,755		3,403	
Travel and subsistence	410		500	
Telecoms	615		804	
Events	157		204	
Publications	407		481	
Recruitment	1,228		2,120	
Other staff costs	910		302	
Other expenditure	2,986		2,004	
Doubtful debt provision	151		-	
Total other expenditure		28,352		31,075
		<b>32,713</b>		<b>40,070</b>

The auditor's remuneration and expenses reflects the notional fee for the NAO statutory audit, which comprises two elements; the accounts audit fee of £60,000 and the IFRS re-statement exercise Trigger Point 2 fee of £5,200.

**11. Programme Costs**

	2008-09	2007-08
	£000	£000
<b>Provision:</b>		
Amount not required written-back provided for in year (non-cash)	-	500
Amount not required written-back (non-cash)	(140)	-
Other expenditure – litigation costs	936	1,550
<b>Total programme expenditure</b>	<b>796</b>	<b>2,050</b>

**12. Income****12(a) Analysis of operating income**

	2008-09	2007-08 as re-stated
	£000	£000
<b>Appropriated-in-Aid:</b>		
Fees for the administration of the Consumer Credit Act 1974	8,993	-
Appeal costs reimbursed	669	-
Contribution from BERR for Consumer Direct development	2,348	-
Other income	109	-
<b>Total Appropriated-in-Aid</b>	<b>12,119</b>	<b>-</b>
<b>Payable to the Consolidated Fund:</b>		
Fees for the administration of the Consumer Credit Act 1974	-	5,572
Merger fees	1,830	2,925
Appeal costs reimbursed	-	181
Other income	100	318
<b>Total operating income</b>	<b>14,049</b>	<b>8,996</b>
Of which:		
Administration income	12,119	-

From 2008-09 the OFT have been able to retain income from Credit Licensing as well as most other income streams as Appropriations-in-Aid.

In addition to the income shown above, the OFT collects fees on behalf of, and pays them over to, the Financial Ombudsman Service (FOS). The amount collected in 2008-09 was £2,152,350, of which £1,936,950 was paid over to the FOS during the year and £215,400, which at the year-end was held in other creditors, was paid over in April 2009. In 2007-08 the OFT collected £3,847,000 all of which was paid over to the FOS during the year. The OFT is able to retain a small administration charge for each fee collected and this is included in other income in the table above. The amount retained in 2008-09 was £71,745 (2007-08: £98,560).

**12(b) Fees and charges**

The OFT is required, in accordance with HM Treasury's *Managing Public Money*, to disclose results for the areas of its activities where fees and charges were made. The following analysis is not intended to meet the requirements of SSAP 25 Segmental reporting, which is not applicable to the OFT under the *Government Financial Reporting Manual*.

	Gross Cost	Income	Shortfall	Actual Recovery	Target Recovery
	£000	£000	£000	%	%
Consumer Credit Licensing	9,090	8,993	97	98.9	100.0

No segmental analysis data was provided in 2007-08 since, at that time, the Consumer Credit Licensing income was paid to the Consolidated Fund rather than retained as Appropriations-in-Aid.



### 13. Tangible Fixed Assets

	Information Technology	Leasehold Improvements	Furniture and Fittings	Assets Under Construction	Total
	£000	£000	£000	£000	£000
<b>Cost or valuation:</b>					
At 1 April 2008	16,616	3,219	2,573	-	22,408
Additions	1,292	17	21	367	1,697
Disposals	(1)	-	(11)	-	(12)
<b>At 31 March 2009</b>	<b>17,907</b>	<b>3,236</b>	<b>2,583</b>	<b>367</b>	<b>24,093</b>
<b>Depreciation:</b>					
At 1 April 2008	10,822	2,833	1,616	-	15,271
Charged in year	1,526	308	278	-	2,112
Disposals	(1)	-	(8)	-	(9)
<b>At 31 March 2009</b>	<b>12,347</b>	<b>3,141</b>	<b>1,886</b>	<b>-</b>	<b>17,374</b>
<b>Net book value at 31 March 2009</b>	<b>5,560</b>	<b>95</b>	<b>697</b>	<b>367</b>	<b>6,719</b>
<b>Net book value at 31 March 2008</b>	<b>5,794</b>	<b>386</b>	<b>957</b>	<b>-</b>	<b>7,137</b>

### 14. Intangible Fixed Assets

	Software Licences	Total
	£000	£000
<b>Cost or valuation:</b>		
At 1 April 2008	836	836
Additions	244	244
<b>At 31 March 2009</b>	<b>1,080</b>	<b>1,080</b>
<b>Amortisation:</b>		
At 1 April 2008	601	601
Charged in year	121	121
<b>At 31 March 2009</b>	<b>722</b>	<b>722</b>
<b>Net book value at 31 March 2009</b>	<b>358</b>	<b>358</b>
<b>Net book value at 31 March 2008</b>	<b>235</b>	<b>235</b>

**15. Debtors****15(a) Analysis by type**

	<b>2008-09</b>	<b>2007-08</b> <b>as re-stated</b>
	<b>£000</b>	<b>£000</b>
<b>Amounts falling due within one year:</b>		
Trade debtors	435	325
Deposits and advances	141	130
Other debtors	197	24
VAT	1,754	1,358
Amount due from the Consolidated Fund – Supply Debtor	-	1,147
Prepayments and accrued income	285	1,711
Penalties outstanding (see 15(c))	87	285
<b>Total debtors</b>	<b>2,899</b>	<b>4,980</b>

**15(b) Intra-Government balances**

	<b>2008-09</b>	<b>2007-08</b> <b>as re-stated</b>
	<b>£000</b>	<b>£000</b>
<b>Amounts falling due within one year:</b>		
Balances with other central government bodies	2,190	2,826
Balances with local authorities	176	-
Balances with public corporations and trading funds	-	-
<b>Sub-total intra-government balances</b>	<b>2,366</b>	<b>2,826</b>
Balances with bodies external to government	533	2,154
<b>Total debtors as at 31 March</b>	<b>2,899</b>	<b>4,980</b>

**15(c) Penalties outstanding**

The OFT is responsible for collecting penalties imposed under the Competition Act 1998. The balance outstanding is analysed below:

	<b>CA98 penalties</b>
	<b>£000</b>
At 1 April 2008	285
Generated in year	-
Collections	(70)
Uncollectable item written-off	(128)
<b>At 31 March 2009</b>	<b>87</b>

The uncollectable item written-off total relates to a penalty on a company which ceased to trade before the debt was fully discharged.

## 16. Cash at bank and in hand

	2008-09	2007-08
	£000	£000
Balance at 1 April	384	1,629
Net change in cash balances	508	(1,245)
<b>Balance at 31 March</b>	<b>892</b>	<b>384</b>
<b>The following balances at 31 March were held at:</b>		
Office of HM Paymaster General	668	123
Cash in hand and locally banked receipts	224	261
<b>Balance at 31 March</b>	<b>892</b>	<b>384</b>

## 17. Creditors

## 17(a) Analysis by type

	2008-09		2007-08 as re-stated	
	£000	£000	£000	£000
<b>Amounts falling due within one year:</b>				
Taxation and social security		734		716
Trade creditors		2,709		4,711
Other creditors		775		419
Accruals and deferred income		3,434		4,157
Amounts issued from the Consolidated Fund for supply but not spent at the year end		445		-
<b>Consolidated Fund extra receipts due to be paid to the Consolidated Fund:</b>				
- received	447		468	
- receivable	192	639	480	948
<b>Total</b>		<b>8,736</b>		<b>10,951</b>

Included within accruals and deferred income is £nil of deferred income which relates to amounts received for surrender to the Consolidated Fund (2007-08: £1,063,273)

## 17(b) Intra-Government balances

	2008-09	2007-08 as re-stated
	£000	£000
<b>Amounts falling due within one year:</b>		
Balances with other central government bodies	2,219	4,810
Balances with local authorities	14	1,384
Balances with public corporations and trading funds	-	795
<b>Sub-total intra-government balances</b>	<b>2,233</b>	<b>6,989</b>
Balances with bodies external to government	6,503	3,962
<b>Total creditors as at 31 March</b>	<b>8,736</b>	<b>10,951</b>

**18. Provisions for liabilities and charges (see also notes 1.12 – 1.14)**

	<b>Early Departure Commitments</b>	<b>Building Refurbishment Provision</b>	<b>Other Provisions</b>	<b>Total</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
Balance at 1 April 2008	438	2,600	2,740	5,778
Provided in year	398	-	-	398
Provisions not required written back	-	(1,272)	(2,156)	(3,428)
Provisions utilised in year	(216)	(1,078)	(584)	(1,878)
<b>Balance at 31 March 2009</b>	<b>620</b>	<b>250</b>	<b>-</b>	<b>870</b>
<b>Expected timing of cash flows:</b>				
Less than one year	191	250	-	441
Between one and five years	397	-	-	397
After five years	32	-	-	32
	<b>620</b>	<b>250</b>	<b>-</b>	<b>870</b>

a) The early retirement provision relates to the costs of individuals who have retired early. The OFT meets these costs by paying the required amounts annually from its resources until the individual reaches normal retirement age. There were five new early retirees during the year (2007-08: one)

b) The building refurbishment provision was set up in 2007-08 to cover refurbishment and rationalisation of space costs expected to be incurred during 2008-09. This reflected the need to comply with new lease agreement and HM Treasury requirements specified in negotiations relating to the signing of the new lease, which runs from September 2009 for 14 years. The refurbishment and rationalisation costs were lower than expected and, as a result, the unwanted provision was written back at the end of the financial year, leaving a small balance to cover work still to be completed.

c) Other provisions brought forward included an amount of £1,938,000 in respect of VAT reclaimed in 2007-08, which was deemed to have been incorrectly reclaimed from HMRC. After discussions with HMT during 2008-09 the Consumer Direct contact centre service was added to the Section 41 VAT refund scheme. This decision was granted with retrospective effect, meaning the 2007-08 provision was no longer required. The balance of the write-back relates to two smaller provisions: the settlement with Morrisons supermarkets, including legal costs, was £140,000 less than provided for in 2007-08 and the cost of closure of Craven House was £78,000 lower than anticipated.

d) Pension provisions for the year ending 31 March 2009 are:

	<b>Total £000</b>
Balance at 1 April 2008	1,498
Reduction in year	(3)
Utilised in year	(84)
<b>Balance at 31 March 2009</b>	<b>1,411</b>
<b>Expected timing of cash flows:</b>	
Less than one year	84
Between one and five years	335
After five years	992
	<b>1,411</b>

The pension provision is unfunded, with benefits being paid as they fall due and guaranteed by OFT for the previous Chairman and Director Generals. There is no fund and therefore no surplus or deficit. An actuarial valuation was carried out by the Government Actuary's Department (GAD) at 31 March 2009.

The financial assumptions used in the calculation of the liability as at 31 March 2009 are as follows:

- the gross rate of increase in salaries is 4.29 per cent per annum  
(2007-08: 4.30 per cent per annum)
- the gross rate used to discount scheme liabilities is 6.04 per cent per annum  
(2007-08: 5.3 per cent per annum)
- the gross rate of increase for pensions in payment and deferred pensions is 2.75 per cent per annum,  
(2007-08: 2.75 per cent per annum)
- in nominal terms, these assumptions imply price inflation of 2.75 per cent per annum  
(2007-08: 2.75 per cent per annum)

Other amounts to be disclosed in order to understand the change in provision:

	<b>£000</b>
Overnight increase in liabilities (change in real return)	-
Current service cost (net of employee contributions)	-
Employee contributions	-
Interest cost	77
Actuarial gains	(80)
	<b>(3)</b>
Benefits paid	(84)
<b>Decrease in provision</b>	<b>(87)</b>

**19. General Fund**

The General Fund represents the total assets less liabilities of the OFT to the extent that the total is not represented by other reserves and financing items.

	<b>2008-09</b>		<b>2007-08 as re-stated</b>	
		<b>£000</b>		<b>£000</b>
Balance at 1 April		(6,477)		(790)
<b>Net Parliamentary funding:</b>				
Drawn down	63,716		70,608	
Deemed	-	63,716	494	71,102
<b>Year end adjustment:</b>				
Supply (creditor)/debtor – current year		(445)		1,147
<b>Net transfer from Operating Activities:</b>				
Net Operating Cost	(56,026)		(68,883)	
CFER repayable to the Consolidated Fund	(1,930)	(57,956)	(8,996)	(77,879)
Non-operating income surrenderable to the Consolidated Fund		-		-
<b>Non-cash charges:</b>				
Cost of capital	(116)		(105)	
Auditors remuneration	65		54	
		(51)		(51)
Actuarial gain/(loss)		80		(6)
<b>General Fund at 31 March 2009</b>		<b>(1,133)</b>		<b>(6,477)</b>

**20. Reserves****20(a) Revaluation Reserve**

The revaluation reserve reflects the unrealised element of the cumulative balance of indexation and revaluation adjustments (excluding donated assets).

	<b>2008-09</b>	<b>2007-08</b>
	<b>£000</b>	<b>£000</b>
Balance at 1 April	975	975
Arising on revaluation during the year (net)	-	-
Transferred to General Fund in respect of realised Element of revaluation reserve	-	-
<b>Balance at 31 March</b>	<b>975</b>	<b>975</b>

**20(b) Donated Asset Reserve**

	<b>2008-09</b>	<b>2007-08</b>
	<b>£000</b>	<b>£000</b>
Balance at 1 April	11	19
Additions during the year	-	-
Release to the Operating Cost Statement	(2)	(8)
<b>Balance at 31 March</b>	<b>9</b>	<b>11</b>

## 21. Notes to the Cash Flow Statement

### 21(a) Reconciliation of operating cost to operating cash flows

	Note	2008-09 £000	2007-08 £000
Net operating cost	3	56,026	68,883
Adjust for non-cash transactions	10, 11	771	(4,445)
(Decrease) in debtors	15	(2,081)	(1,455)
Less movement in debtors not passing through the OCS		1,148	(37)
Decrease/(increase) in creditors	17	2,215	(263)
Less movement in creditors relating to items not passing through the OCS		272	(2,668)
Use of provisions	4	1,962	290
<b>Net cash outflow from operating activities</b>		<b>60,313</b>	<b>60,305</b>

### 21(b) Analysis of capital expenditure and financial investment

Tangible fixed assets additions	13	1,697	1,430
Intangible fixed assets additions	14	244	58
Proceeds of disposal of fixed assets		-	-
<b>Net cash outflow from investing activities</b>		<b>1,941</b>	<b>1,488</b>

### 21(c) Analysis of financing

From the Consolidated Fund (Supply) – current year		63,716	70,608
From the Consolidated Fund (Supply) – prior year		1,148	-
<b>Net financing</b>		<b>64,864</b>	<b>70,608</b>

### 21(d) Reconciliation of Net Cash Requirement to increase/(decrease) in cash

Net cash requirement	4	(63,271)	(72,251)
From the Consolidated Fund (Supply) – current year	19	63,716	70,608
From the Consolidated Fund (Supply) – prior year		1,148	
Amounts due to the consolidated Fund – received in a prior period and paid over		(1,532)	(1,134)
Amounts due to the Consolidated Fund received and not paid over		447	1,532
<b>Increase/(decrease) in cash in the period</b>		<b>508</b>	<b>(1,245)</b>

**22. Capital commitments**

	2008-09	2007-08
	£000	£000
<b>Contracted capital commitments at 31 March 2009 for which no provision has been made</b>	924	-

**23. Commitments under operating leases**

	2008-09		2007-08	
	Land and buildings	Other	Land and buildings	Other
	£000	£000	£000	£000
<b>At 31 March 2009 OFT was committed to making the following payments during the next year in respect of operating leases expiring:</b>				
Within one year	-	29	-	-
Between one and five years	-	7	4,136	-
After five years	3,943	-	-	-
<b>Total</b>	<b>3,943</b>	<b>36</b>	<b>4,136</b>	<b>-</b>

**24. Other commitments**

The department has no non-cancellable contracts (which are not operating leases) as at 31 March 2009 (2007-08: none).

**25. Financial instruments**

As the cash requirements of the OFT are met through the Estimates process, financial instruments play a more limited role in creating risk than would apply to a non-public sector body of a similar size. The majority of financial instruments relate to contracts to buy non-financial items in line with OFT's expected purchase and usage requirements and the OFT is, therefore, exposed to little credit, liquidity or market risk

**26. Financial Guarantees, Indemnities and Letters of Comfort**

The OFT has not entered into any Financial Guarantees, Indemnities or Letters of Comfort. However, on 11 March 2002 the entity then known as the Department for Trade and Industry issued a personal liability indemnity to the OFT Chairman and Board Members. Parliament approved the Minute which gives the Chairman and Board Members of the OFT the equivalent indemnity to that given to civil servants under the Civil Service Management Code. Therefore, the Crown accepted responsibility for the personal civil liabilities, including costs, of the chairman and other Board Members.

**27. Contingent liabilities disclosed under FRS 12**

Where appeals are made against OFT decisions there is a possibility of a transfer of economic benefits to third parties. Other than amounts that are already provided for, any liabilities are too remote and cannot be reasonably quantified.



## 28. Losses and Special Payments

### Losses

During the year OFT made three write-offs resulting from miscalculation of pay and allowances. The total value of these write-offs was £4,138.

There was also a cash loss of £250,000, of which £97,000 occurred in 2008-09 and £153,000 occurred in 2007-08. This was due to an alleged fraud made possible by a control weakness in the Accounts Payable process.

### Special payments

An agreement with Morrisons supermarkets, which was provided for in 2007-08 and referred to in the provisions note at that time, was settled during 2008-09 at a final value of £100,000.

There was also one case of a special payment for compensation to a member of staff, which exceeded £250,000 and one which did not.

## 29. Related-party transactions

The OFT had a small number of transactions with other government departments and other central government bodies. Most of these transactions have been with the Department for Business, Enterprise and Regulatory Reform and the Central Office of Information. None of the Board Members, key managerial staff or other related parties has undertaken any material transactions with the OFT during the year.

## 30. Deferred income

Monies received for which the work had yet to be undertaken at the year end are shown below:

	2008-09	2007-08
	£000	£000
Fees for administration of the Consumer Credit Act 1974	-	1,003
Fees for mergers under the Fair Trading Act 1973	-	60
<b>Fees payable to the Consolidated Fund</b>	<b>-</b>	<b>1,063</b>
Other income received in advance	452	10
<b>Total deferred income</b>	<b>452</b>	<b>1,073</b>

These amounts will be recognised as income in the following year when the corresponding work has been carried out. Of the other income received in advance in 2008-09 £240,967 relates to Consumer Credit Licensing, which in 2007-08 was surrendered to the Consolidated Fund but which is now retained by OFT as Appropriations-in-Aid.

## 31. Events after the balance sheet date

In accordance with the requirements of FRS 21 Events after the balance sheet date, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. The financial statements do not reflect events after this date. The financial statements were authorised for issue by the Accounting Officer on the 16 July 2009.

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