

Enforcement
Authority

National Measurement Office

National Measurement Enforcement Authority

End of Year Report

2013/14



National
Measurement
Office



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Our mission statement

The NMO have adopted the following as our mission statement:

"To provide policy support to Ministers on measurement issues and a measurement infrastructure which enables innovation and growth, promotes trade and facilitates fair competition and the protection of consumers, health and the environment."

To achieve this, the following objectives have been achieved:

1. Increase economic growth, innovation and social impact through a world class scientific measurement infrastructure.
2. Promote competition and fair trading both in the UK and at the global level through a modern weights & measures and hallmarking regime.
3. Provide good value for money metrology services.
4. Protect the interests of the public, business and the environment by enforcing relevant legislation.

It is through objective four that the enforcement department's contribution has the most direct impact.

About us



Our corporate plan 2013 – 2016 sets out the key objectives we are seeking to achieve. These objectives lead to priorities for the year, which are detailed in this plan.

About us: BIS

We are an Executive Agency for the Department for Business, Innovation and Skills (BIS) sitting within the Knowledge and Innovation Group.

BIS is the department for economic growth. The department invests in skills and education to promote trade, boost innovation and help people to start and grow a business. BIS also protects consumers and reduces the impact of regulation.

The BIS vision *“to achieve strong, sustainable and balanced growth, evenly shared across the country and between industries”* is underpinned by a series of knowledge and innovation, skills, trade, markets and enterprise themed objectives.

About us: NMO

We operate from a purpose built facility in Teddington. Over recent years we have built on a portfolio of responsibilities that are founded on our legal metrology heritage, ensuring fair and accurate measurement is available and used for transactions regulated by law.

We work to promote competition and fair trading in the UK and internationally by providing regulatory policy through weights and measures legislation, hallmarking and for gas and electricity metering. This legislation sets out vital elements of the UK's trading and consumer protection framework.

Our commercial services team provide examination and approval for new weighing and measuring equipment to be used for trade as well as support towards ISO Management Systems. This is underpinned by our maintenance of standards for mass, volume and length, which are crucial to the traceability and verification of standards used by UK local authorities.

This wealth of expertise assists our ability to manage and support the National Measurement System. This is a network of laboratories and processes that provide measurement standards and calibration testing facilities. It maintains the measurement infrastructure, represents the position of the UK internationally and influences the development of standards. This responsibility allows the UK to be in line with the common international position, where scientific metrology and legal metrology are fully integrated.

About us: Enforcement

We are well respected as a forward thinking national market surveillance authority that aims to support businesses and allow consumers to make effective purchasing decisions.

Our mixed model enforcement service combines direct enforcement with product testing and educational activities in order to best increase compliance through a changing technological and legislative climate. Enforcement decisions are intelligence led and risk based, and our actions are proportionate and appropriate.

We carry out our regulatory responsibilities in line with the Regulators' Compliance Code, the statutory code of practice intended to encourage regulators to achieve their objectives while minimising burdens to business.

About us: The wider context

As well as BIS, we deliver policy objectives for The Department of Energy and Climate Change (DECC), The Department for Environment, Food and Rural Affairs (Defra) and The Department for Transport (DfT) by enforcing the following:

The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) Regulations restricts hazardous substances from being used in the manufacture of electrical and electronic equipment. Hazardous substances can be difficult to manage during disposal or recycling. Restricting them during production helps to keep them out of the waste stream.

The Batteries and Accumulators (Placing on the Market) Regulations control the use of mercury and cadmium in batteries; ensure that batteries are marked appropriately and that they can be readily removed from appliances for end of life disposal. The Regulations apply to all types of batteries and to those placing them on the market.

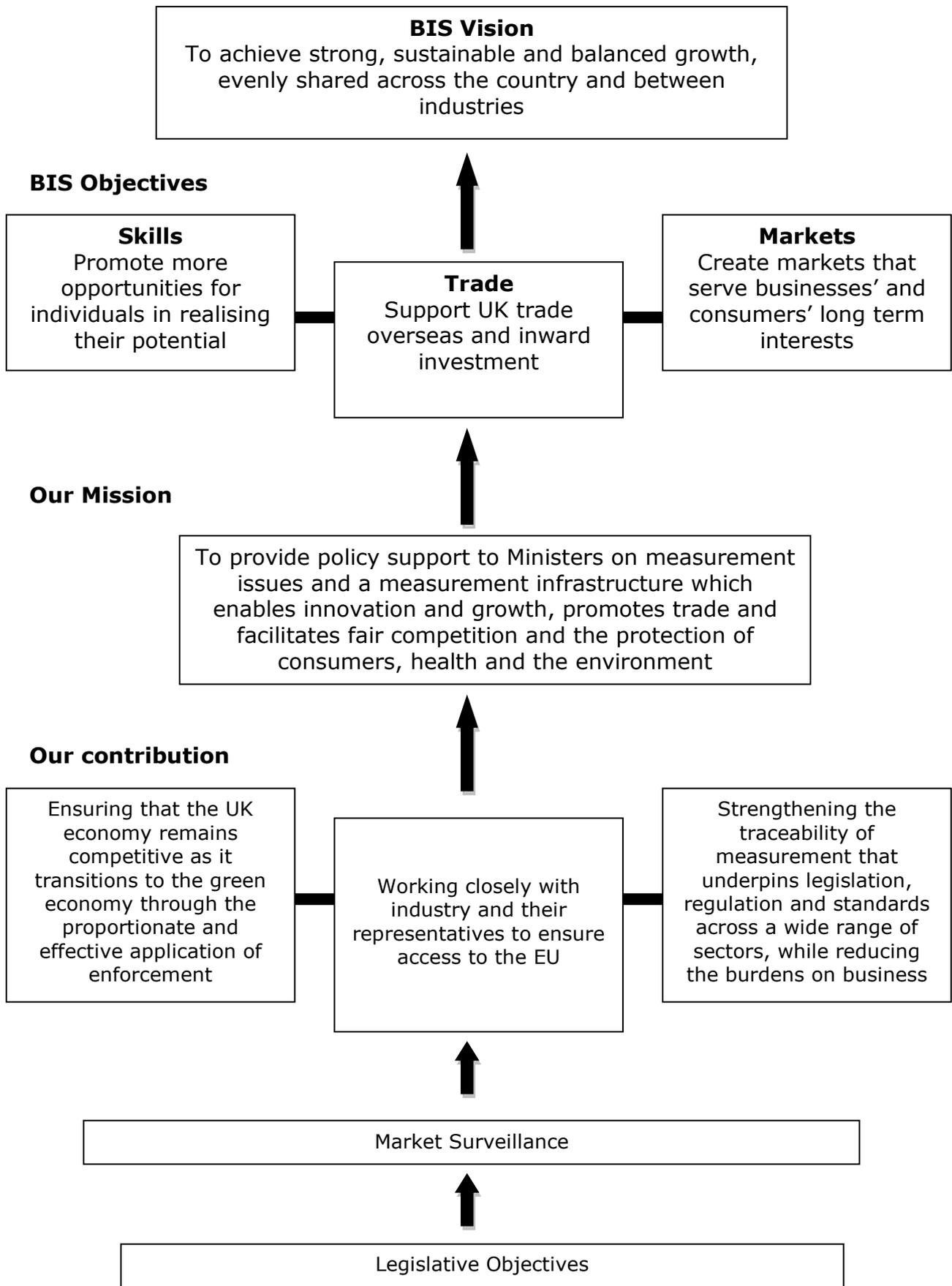
The Ecodesign for Energy-Related Products Regulations provides a framework for establishing minimum requirements for energy using and energy related products. The overall objective is to reduce greenhouse gas emissions and other adverse environmental impacts with emphasis placed on the design and development stages of a product with a view to improving its energy efficiency.

The Energy Information Regulations communicates complex information in a clear and understandable format regarding the energy consumption and performance of domestic appliances. This makes it easier for consumers to make informed purchasing decisions, while promoting innovative competition and a level playing field for manufacturers.

The Labelling of Tyres Regulation provides consumers with clear and relevant information about the quality of the tyre. The aim of the Regulation is to increase the safety, economic and environmental efficiency of road transport while providing an incentive to tyre manufacturers to improve their products.

The EU Timber Regulation is an overarching measure as part of the European Union's policy to counter the trade in illegally harvested timber and timber products as defined through the Forest Law Enforcement, Governance & Trade (FLEGT) action plan which was published in 2003 in recognition of the EU's responsibilities as one of the world's largest markets for illegal tropical timber.

How we contribute





We contribute to the BIS vision by:

- ensuring that the UK economy remains competitive as it transitions to the green economy through the proportionate and effective application of enforcement
- working closely with industry and their representatives to ensure access to the EU
- strengthening the traceability of measurement that underpins legislation, regulation and standards across a wide range of sectors, while reducing the burdens on business

In preparing this report we have spent some time reflecting on our contribution by highlighting some of our key achievements.

Key achievements

Ensuring the UK economy remains competitive as it transitions to the green economy through the proportionate and effective application of enforcement

- We made a direct economic impact of £11,685,400 by ensuring our investigations resulted in proportionate outcomes
- We initiated 991 investigations built on risk based approaches
- We promoted emerging markets and new technologies

Working closely with industry and their representatives to ensure access to the EU

- We set strategic direction for EU market surveillance ADCO groups
- We combined with other UK regulators to address fulfilment houses
- We developed consistent approaches to market surveillance through the Ecopliant project
- We supported UK industry through the inclusive implementation of the EU Timber and Tyre Labelling Regulations

Strengthening the traceability of measurement that underpins legislation, regulation and standards across a range of sectors, while reducing the burdens on business

- We transformed the oven industry preventing the misuse of tolerances
- We responded effectively to changes in legal measurement

Ensuring that the UK economy remains competitive as it transitions to the green economy through the proportionate and effective application of enforcement

We made an economic impact of £11,685,400 by ensuring our investigations resulted in proportionate outcomes

We strive to ensure that all of our investigations result in a proportionate outcome that proportionately address the level of non-compliance discovered. An example is the test purchase of a refrigerator, which was tested for energy consumption. The results showed a 23.2% difference between the actual and claimed energy efficiency index. This changed the manufacturer's declared rating index of A+ to A. Under the Energy Information Regulations, the energy label must accurately relate to the performance of the product and under the Ecodesign for Energy Related Products Regulations, from July 2012 refrigerators need to be able to perform to a minimum of an A+.

Our investigation established that 7637 refrigerators had been sold and a further 3505 units remained within the distribution chain. After we contacted the manufacturer the company were able to demonstrate their production processes, identify possible reasons for the non-compliance, quarantined remaining stock and submitted an enforcement undertaking (corrective plan) which aimed to remove the remaining 3505 units, worth £359,000, from the distribution chain and offered compensation of £25 per consumer, for extra energy consumption that their appliance might have used. We accepted this plan and closed the case.

We initiated 991 investigations built on risk based approaches

Our approach to investigations is based on risk and aligned with the Regulators Compliance Code which states that "*regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective.*" We initiated 991 investigations of which 573 identified some conformity issue requiring follow up actions. Of those issues identified, 95 required a full investigation.

An example of applying risk was by assessing intelligence received relating to the labelling of halogen lamps under the Ecodesign and Energy Labelling Regulations. It had been alleged that the lamps, with a retail value of £850,000, had an energy efficiency rating of 'F' but were being packaged as 'C' and therefore misleading the consumer and gaining a market advantage.

Based on the evidence presented this was determined as a priority risk and we allocated resources where they would be most effective in addressing this risk. As a result of our intervention, the company identified a number of issues with the packaging and put in place measures to prevent this occurring again.

Ensuring that the UK economy remains competitive as it transitions to the green economy through the proportionate and effective application of enforcement

We promoted emerging markets and new technologies

Innovation is indispensable to economic growth, and our support of new technologies is vital. Proactive engagement with emerging markets and is a constant strand in our annual programme and can often take the form of long term engagements due to the insight required.

Our ongoing support following the recast RoHS Directive has steered our interaction with previously 'out of scope' industries e.g. the monitoring and control and medical instruments market sectors which are worth approximately £2Bn to the UK economy.

And interactive eyewear, automatic sensor taps and radio-frequency identification (RIFD) chips in payment card technologies are just some innovative 'in scope' growth sectors that were engaged with as part of our annual RoHS programme. Our proactive and direct approach to the monitoring, verification and enforcement of these sectors has affected over £230,000 of non-compliant products and secured commitment to future compliance through the issue of 13 letters of advice.

Combined, our efforts have helped the government in creating the right conditions for companies to thrive and make it easier for people to start successful new businesses.

Working closely with industry and their representatives to ensure access to the EU

We set strategic direction for EU market surveillance ADCO groups

An Administrative Cooperation (ADCO) group is a forum for market surveillance authorities and facilitates the sharing of best practice, the identification of barriers to enforcement and the resolution of legislative grey areas. We have provided the chair and secretariat for the RoHS and Energy Labelling ADCO (as well as the co-chairmanship of the Ecodesign ADCO) for several years.

We have set the strategic direction of these groups by working closely with the European Commission on the future of market surveillance, by inviting appropriate industry bodies for multilateral discussions, and by initiating ADCO group projects (both internally and externally funded and visible).

This approach has allowed the ADCOs to mature, has improved the accessibility and increased attendance. In doing so have ensured that UK industry is supported through our ability to shape and define consistent approaches to market surveillance.

We combined with other UK regulators to address fulfilment houses

Serious concerns were raised by government and market surveillance authority representatives in relation to fulfilment houses. In particular the risks they pose as a potential outlet for unsafe and non-compliant products entering the UK primarily from the Far East, the distortion of UK markets and issues surrounding customs and excise duty, VAT and income tax obligations.

Fulfilment typically refers to services provided by a company that stores, packages, and ships ordered, purchased, or requested products to end consumers.

The size and scale of a fulfilment house can vary from global operators such as Amazon, to smaller companies operating from trading estates, or residential addresses. Typical activities of fulfilment houses are to pick, pack and despatch goods often without knowing what those goods are.

To tackle this growing concern we have combined with eleven other government departments and agencies to initiate and take a lead role in a joint project. The outcome will analyse and assess current knowledge to inform the UK's future strategy on fulfilment houses.

Working closely with industry and their representatives to ensure access to the EU

We developed consistent approaches to market surveillance through the Ecopliant project

The key objective for this phase of the project was to produce interim reports for establishing best practice. Information (gathered from market surveillance authorities through surveys and follow up interviews) was analysed and recommendations and conclusions made.

The results showed large variations regarding practical experience specific to the Ecodesign regulations, however most market surveillance authorities were responded positively to the idea of cooperation and information exchange.

The practicalities of the best practice are then assessed through a pilot action of coordinated testing across national boundaries. An example was the coordinated test purchase of 48 electric motors between the UK, Denmark and Sweden, which were all transported to and tested in Denmark against Ecodesign requirements.

The scale of active market surveillance, variation in enforcement methodologies and differences in national legislation has made this part of the project a bigger task than first envisaged.

We supported UK industry through the inclusive implementation of the EU Timber and Tyre Labelling Regulations

The EU Timber Regulation came into force on 3 March 2013. We placed importance on building team capability and competency by implementing process & procedures through a program of stakeholder engagement. This raised awareness of the regulation and the due diligence requirements placed on operators. It followed that our enforcement activities centred on engaging with low risk, but high volume organisations that have already invested significant resources in implementing systems and procedures.

Similarly the main focus for Tyre Labelling was to promote and raise awareness within the UK of the EU Tyre Label. As we do not yet have any powers, we were unable to issue sanctions or fines in the event of discovering non-compliance. However by working and engaging with industry and carrying out over 300 visits to tyre manufacturers, importers, distributors and retailers we are proud to have increased compliance with online requirements from 45% to 72%.

Strengthening the traceability of measurement that underpins legislation, regulation and standards across a wide range of sectors, while reducing the burdens on business

We transformed the oven industry preventing the misuse of tolerances

The Energy Information Regulations 2011 require suppliers of ovens to provide accurate descriptions on energy labels regarding energy consumption and class, usable volume, size and where applicable noise. The regulations cite a tolerance when testing these products, but this should be for the use of the market surveillance authority only.

We discovered that 25% of oven brand names in the UK market were misusing the market surveillance tolerance in order to enhance the apparent performance of their products. Therefore, a project was commissioned to target these eight businesses gaining a market advantage over their competitors.

Approximately 1.5m ovens are sold on the UK market annually, at an estimated cost of £600m. Therefore, with 25% of the market previously exploiting the tolerance, the cost of goods affected by the project is in the region of £150m and the detriment to consumers through inaccurate measurement is approximately £700,000.

We sought to engage with each business individually in order to make the company aware that they were breaching the regulations. We then worked with the business to achieve an outcome that has removed the reliance on the tolerance through a phasing out process supported by positive declarations from all manufacturers.

We responded effectively to changes in legal measurement

We responded effectively to changes in legal measurement by communicating legislative obligations to a broad range of stakeholders in a timely manner. During 2013 – 2014 we were responsible for ten pieces of new legislation and nine changes to existing legislation. Ensuring that measurement methods and methodologies, as well as verification procedures, are clearly understood ahead of implementation, is essential in ensuring compliance.

From communicating the amended Batteries Directive, which will ban Cadmium in portable batteries and accumulators used in cordless power tools, to the DNA sampling of timber or the challenges presented by increasing the scope of the RoHS and Ecodesign regulations from domestic to commercial and industrial products, we will continue to support industry in respect of measurement throughout any transitional period.



Appendices

Support

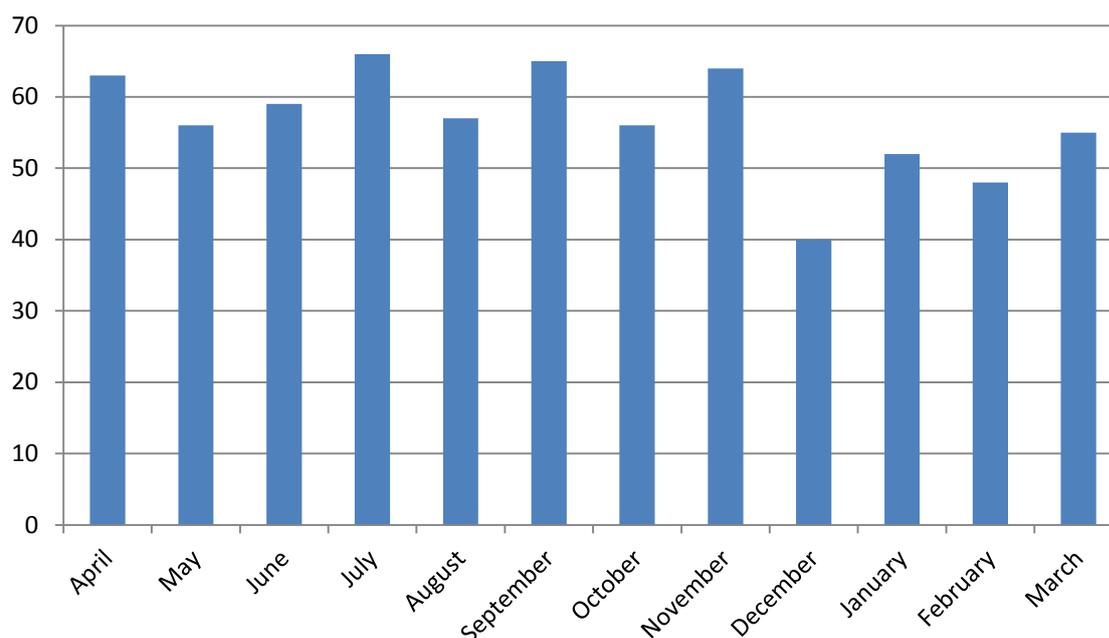
Direct Enforcement

Press Releases

Support

We strive to achieve compliance by raising awareness and providing guidance to industry by answering enquiries, attending trade shows, hosting exhibitions, speaking at conferences and hosting an online presence.

During 2013 – 2014, **681** enquiries were received and answered by NMO Enforcement staff as illustrated below.



We transitioned to the new digital service Gov.uk which replaces the two main government digital brands, Directgov and Business Link.

During 2013 – 2014 there were:

488,196 page visits (84% made by first time visitors)

196,374 unique page views

72,666 total sessions

36 email alerts sent

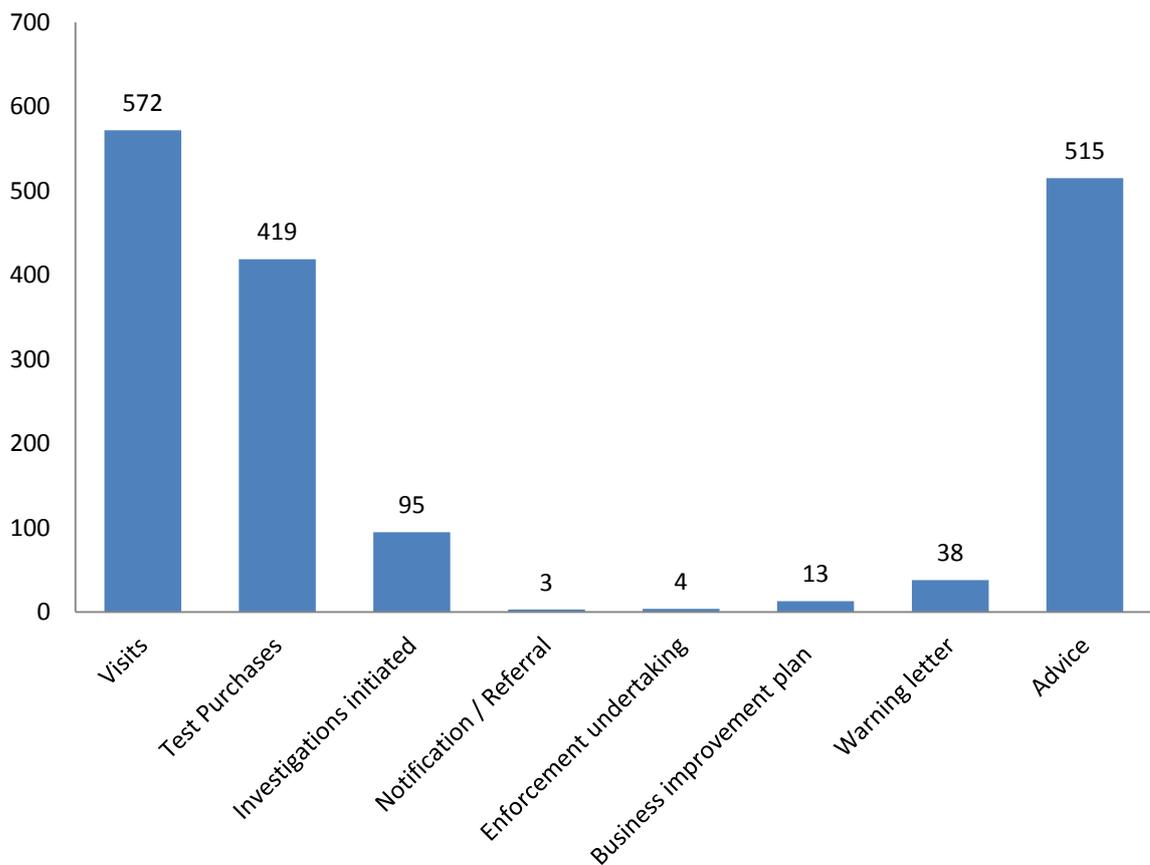
7563 unique email opens

We estimate our support activities to have an economic impact of **£19.7 Million**

Direct Enforcement

Our capability to apply appropriate and proportionate responses underpins our ability as a progressive, forward thinking market surveillance authority.

We estimate our direct enforcement activities to have an economic impact of **£11,685,400** measured in terms of goods removed from the market or made compliant, consumer detriment or unfair market advantage.



By ensuring the delivery of efficient, targeted, effective and flexible interventions we have successfully realised the benefits that regulations can bring by contributing approximately **£31.4 Million** to the UK economy.

Press Releases

The following pages contain some of the press releases that we published throughout the year:



NMO – Press Release Smeg Oven

The National Measurement Office (NMO) has completed an investigation into the accuracy of declarations provided by the manufacturer, Smeg (UK) Ltd and the energy label that was supplied with an oven. This investigation formed part of a wider project that assessed the compliance of a number of household ovens.

During the course of this project it was discovered that a Smeg (UK) Ltd oven was found to use an average of 17.7% more energy than declared on the accompanying energy label. The appliance was tested using an accredited facility that followed the relevant standards.

During the investigation it was discovered that the oven had undergone a number of design changes and the company had failed to accurately keep abreast of the evolution of the appliance.

As a result the company has entered into an enforcement undertaking ensuring that a number of improvements are made across the company and have instigated further changes necessary to ensure future compliance of the product in question. These changes will ensure the company are now able to inform consumers accurately of the appliance's energy consumption figures.

Smeg (UK) Ltd has cooperated with the NMO throughout this investigation and has demonstrated their commitment to environmental sustainability through the undertaking by making a charitable donation of £40,000 to a number of environmental charities, which offsets the detriment caused.



NMO Press Release – Whirlpool Energy Labelling Investigation

The NMO has completed an investigation into the accuracy of declarations provided by a manufacturer on the energy labels they supplied with a chest freezer.

Whirlpool (UK) Ltd were contacted in May 2012 when one of their large chest freezers (model number CO405W) was found to use an average of 14.6% more energy than declared on the label as part of a wider project examining compliance in this area of the market. The product's claimed energy consumption was 332kWh/year, but the measured figure from the accredited testing process showed a result of 381kWh/year.

When the NMO engaged there were no remaining stocks of the CO405W as Whirlpool prepared their latest model of chest freezer for release onto the market. The company had carried out a number of internal energy tests on the CO405W at the time it was originally manufactured, but none between the end of 2010 and the time the last models were placed on the market in September 2011.

Whirlpool sought to correct this issue and invited the NMO to witness first hand their processes and controls to ensure compliance. With no old stock remaining to analyse, the focus was placed on guaranteeing the current range of freezers performed to the levels declared on the energy labels. A series of tests were conducted evidencing the model replacing the CO405W performed equal to or better than the energy declarations provided.

Attention was then switched back to the original offences and the nine month period during which less efficient freezers had been placed on the market. After discussing the issues at length with the NMO, Whirlpool wished to demonstrate their commitment to environmental sustainability by making a donation of €10,000 to Global Action Plan, a charity committed to changing the way individuals, businesses and schools think about their environmental behaviour. A good working relationship has been built between Whirlpool and the NMO through this investigation and this will continue as the enforcement authority strives to protect businesses, consumers and the environment.

A spokesperson for Whirlpool stated; "Whirlpool takes its responsibilities very seriously and energy labelling and its stewardship are amongst the most important. Since 1970 we have had a long-term commitment to resource efficiency. In every part of our organisation we conduct our business with the utmost integrity. We strive to create cutting-edge appliances that consume less energy and use materials that minimise the impact on the environment from development to disposal. Some of our best-selling appliances are the most energy efficient and we intend to take our development to the next level, working with the National Measurement Office now and in the future".



NMO Press Release – Miele Energy Labelling Investigation

The NMO has completed an investigation into the accuracy of declarations provided by a manufacturer on the energy labels they supplied with a chest freezer.

Miele Company Limited were contacted in May 2012 when one of their chest freezers (model number GT5284S) was found to use an average of 11.9% more energy than declared on the label as part of a wider project examining compliance in this area of the market. The product's claimed energy consumption was 209kWh/year (A++), but the measured figure from the accredited testing process showed a result of 234kWh/year (A+).

Almost three hundred of these freezers had been sold in the UK when the NMO engaged with 62 units of the freezer remaining in stock, held in quarantine at Miele's premises in Abingdon. The company had carried out a number of internal energy tests on the GT5284S and had taken action to improve the freezer's performance when noticing a decline in test results.

However, further difficulties were encountered when the company mistakenly placed 52 of the quarantined stock onto the market, labelled incorrectly as A++. It was agreed between the NMO and Miele that the company would construct and propose an Enforcement Undertaking to offset the detriment caused to consumers and the environment.

The solution detailed that Miele would write to all traceable consumers who purchased a mislabelled appliance and offer them a voucher worth £50, intending to negate the financial costs resulting from the unexpected extra energy consumed over the freezer's lifetime. The company also made a donation to the Woodland Trust as a gesture of goodwill and a method of addressing any environmental impact.

In agreement with NMO, Miele will sell the remaining appliances in stock relabelled as A+ and Miele have made further investment committing them to improved manufacturing processes. Any further forthcoming consumers affected by the issue (which is confined to the GT5284S model if it was sold as A++ between June and November 2012) will also be offered the voucher by Miele. Despite the complications of the investigation, a good working relationship has been built between Miele and the NMO and this will continue as the enforcement authority strives to protect businesses, consumers and the environment.



NMO Press Release – Zanussi Energy Labelling Investigation

The NMO has completed an investigation into the accuracy of declarations provided by a manufacturer on the energy labels they supplied with an appliance.

Zanussi, part of the Electrolux Group, were contacted in April 2012 when a 200 litre chest freezer (ZFC321WA) was found to use an average of 14.4% more energy than declared on the label as part of a wider project examining compliance in this area of the market. The product's claimed energy consumption was 238kWh/year, but the measured figure from the accredited testing process showed a result 272kWh/year.

After being made aware of the NMO's findings Electrolux implemented an internal investigation to analyse and address the issue. The NMO were kept informed of the company's actions before they presented their full findings in a meeting in July, showing that the discrepancy had been traced to an excessive vibration in one of the production lines which caused the evaporator tube to become knocked away from the inner liner, causing the chest freezer to use more energy to reach the required temperature. This line was responsible for the manufacture of 79% of the affected model.

The problem was traced to chest freezers manufactured over a 15 month period, during which time Electrolux continued to place chest freezers on the market. Electrolux devised a way to fix the problem relating to future production and quarantined a stock of 209 units which will not be placed on the market.

To demonstrate their commitment to sustainability and address the environmental detriment caused by the energy consumption over and above that declared on the label of the chest freezer, Electrolux have made a donation of over £15,000 to the Woodland Trust. This was part of an enforcement undertaking composed by the manufacturer, offsetting detriment and explaining the full list of measures they have taken as part of their internal solutions to resolve the problem. The NMO will continue their good working relationship with the company to ensure proposed actions are carried out.

A spokes person for Electrolux stated; "The discrepancy in the energy consumption which affected just one particular model of Zanussi chest freezer (ZFC321WA) was down to a manufacturing issue. As soon as this discrepancy was brought to our attention we launched an urgent investigation, identified the problem and rectified it. Electrolux takes every possible step to ensure that all its appliances meet all relevant EU laws including those for Energy Labelling and we will continue to cooperate and work closely with the National Measurement Office (NMO) on any issues it raises".





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