



**CONSUMER REPRESENTATION
IN REGULATED INDUSTRIES**

A report by the
Department of Trade and
Industry and HM Treasury

JULY 2004



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**HM TREASURY
DEPARTMENT OF TRADE AND INDUSTRY**

Consumer representation in regulated industries

Final Report

July 2004

Executive Summary

1. In September 2003, the DTI and HM Treasury began a joint study into consumer representation in regulated markets. The aim was to assess the efficiency and effectiveness of the existing sectoral consumer bodies, sharing best practice and developing a set of recommendations to further enhance the effectiveness of consumer bodies in the medium term. This report presents the findings of the study. It also sets out a possible model for future consumer representation in regulated markets.
2. The study has provided valuable insight into the policy framework for consumer representation by reviewing arrangements across a number of sectors. This report focuses on consumer representation in the utility sectors, air transport, and financial services. However, the report also has regard to the broader consumer environment taking account of the role played by Consumers Association and the National Consumer Council, and drawing on the experience of the Rail Passenger Council, Alternative Dispute Resolution mechanisms in the communications sector such as Otelco, and the Financial Ombudsman Service.
3. The report's recommendations are underpinned by a vision of strategic and proactive consumer bodies, offering good value for money for the customer, and operating within a regulatory system that works well for all consumers. Achieving this vision will depend on a number of key factors:
 - Each of the sectoral consumer bodies needs to become more strategic and proactive in its approach to consumer representation.
 - The consumer bodies must demonstrate value for money; since customers or taxpayers ultimately provide their funding. In some sectors, there will be a need to address:
 - Regional representation: is it cost effective and does it add value for customers?
 - Complaints handling: it must meet the needs of consumers, but are there clear incentives on companies to minimise complaints by delivering a high-quality service?
 - The whole regulatory framework must work well for all consumers: Consumer bodies, regulators, companies and Government need to work together to ensure that consumers get a good deal in regulated markets.
4. The report recognises the significant achievements of the sectoral consumer bodies to date. Energywatch and Postwatch, in particular, have managed the high levels of consumer complaints they received, and they earn generally positive feedback about their service. All of the bodies can exhibit positive achievements on their effects on market behaviour or regulatory decisions. Very many examples of good practice set out in the report are derived from the innovations made by the consumer bodies themselves.
5. Following this successful start-up phase, there are some issues emerging which could be addressed by the consumer bodies:

- Consumer bodies may become unduly reactive, responding to the regulator’s agenda or work programme. There is scope for greater focus on issues which will affect consumers in the future, or which are not at present a high priority for the regulator.
 - Resources devoted to sectoral consumer representation are spread across six organisations and twenty-seven regional offices¹. This makes it difficult to achieve economies of scale, and to develop a critical mass to tackle project and programme management. This can also raise problems in ensuring co-ordination and consistency of approach.
 - Consumer bodies may target issues which are easiest to measure, instead of focusing on the points which have greatest impact on consumers. Some consumer bodies do not have processes in place to measure the impact of their activities.
6. There are also some issues that are more apparent in markets where there are independent statutory consumer bodies.
- Consumer bodies may expend too much resource on dealing with the effects of consumer dissatisfaction in the form of complaints instead of addressing the underlying causes of market failure. This reduces the incentives on the companies involved to resolve consumer problems themselves.
 - A confrontational relationship can arise between the regulator and the consumer body. An excessively adversarial stance can give rise to increased costs and delays, and risks undermining the credibility of the regulator.
7. This report concludes that the recommendations on best practice for sectoral consumer bodies point toward a new framework for sectoral consumer representation, where:
- suppliers of services are strongly incentivised to provide higher standards of customer care and specifically to deal effectively with consumer complaints;
 - the number of different contact points for information and advice can be simplified, to the benefit of consumers in terms of clarity and ease of use; and
 - the consumer representation and advocacy functions can be tackled from a position of greater strength and a broader understanding of consumer needs.
8. In order to achieve this, the framework should comprise:
- Consumer Direct handling enquiries;
 - suppliers dealing effectively with consumer complaints;
 - complaints not resolved between the customer and supplier being handled by alternative dispute resolution bodies such as ombudsmen;
 - regional representation being maintained where necessary; and

¹ This includes energywatch, Postwatch, WaterVoice, Financial Services Consumer Panel, OFCOM Consumer Panel and the Air Transport Users Council. Both consumer panels use facilities when necessary at their regulators premises and therefore do not have fixed offices.

- sectoral bodies coming together to form a single National Utilities Consumer Council, providing a more effective, strategic voice for utility consumers.
9. In this report it is assumed that a National Utilities Consumer Council would cover traditional utilities. However, the exact remit and scope of this new body should not be fixed and should remain sufficiently flexible to expand or modify its remit to respond to changing demands.
 10. Furthermore, the full realisation of this model for sectoral consumer representation would depend on a number of factors, including the successful roll-out of Consumer Direct and on further work and analysis being undertaken on other aspects of the package. It is important that this proposal should be considered by all interested parties. Consequently, views are being sought on the proposal as part of a wider public consultation that is being undertaken by the Department for Trade and Industry in July 2004.
 11. The Department for Trade and Industry (DTI) and HM Treasury (HMT) will continue to work with the consumer bodies to take forward the key findings in this report.
 12. There are other reports being published by Government which are relevant to the issues addressed in this project report. The National Audit Office (NAO) has undertaken its own separate report on energywatch and Postwatch, and they plan to publish a report in September.
 13. The NAO has considered how the two bodies have determined their priorities; what they have achieved; and the costs incurred. In order to minimise the burden on participating bodies, NAO, HM Treasury and the DTI jointly commissioned PricewaterhouseCoopers (PwC) to assess the efficiency and effectiveness of energywatch and postwatch against similar bodies, and that report will be published alongside the NAO report. The PwC report has been utilised to help develop both this report and the NAO report.
 14. The Department for Constitutional Affairs will very soon be publishing a White Paper entitled "Transforming Public Services: Complaints, Redress and Tribunals", which describes the Government's plans to take forward the proposals for tribunals reform in Sir Andrew Leggatt's report "Tribunals for Users – One System, One Service".

1. Introduction

1.1 Consumer policy has been a high priority for this Government. In July 1999 the Government published its Consumer White Paper, "Modern markets: confident consumers" which set out a new agenda for consumer policy. It stated, "Confident consumers, making informed decisions in modern, competitive markets, promote the development of innovative and good value products. And better performance in business in turn benefits consumers²". To deliver this mission statement, the Government set a new agenda to:

- promote open and competitive markets;
- provide people with the skills, knowledge and information they need to become demanding consumers; and
- encourage responsible businesses to follow good practice.

1.2 The Government is also currently reviewing the UK consumer framework, and will publish a consultation paper in July 2004 drawing on the comparative benchmarking report published in October 2003³.

1.3 Although the Consumer White Paper did not cover consumers' experiences in regulated markets in detail, the desired outcomes in regulated markets are much the same as elsewhere in the economy: more demanding consumers taking opportunities to switch in competitive situations, better functioning markets, sharper incentives on regulated companies, and high levels of trust between suppliers and consumers.

1.4 The Utilities Review (1998) set out the objective of securing a fair deal for all consumers – especially disadvantaged groups - in using the essential services that utilities provide. The subsequent White Paper⁴ confirmed the Government's intention to establish consumer councils for the utilities on an independent statutory basis. This was an important part of the agenda to ensure that the regulatory regime served the needs of consumers. The Government proposed that these utility consumer bodies should:

- articulate a strategic, independent view of the consumer interest to Government, Parliament and the media;
- work constructively with the utility companies to reduce the causes of consumer complaints, but also provide "one stop shops" for consumer complaints that were not resolved by the utilities;
- help regulators in developing policy that takes account of consumer needs and interests;
- publish information and advice to assist consumers in getting a fair deal from the utilities companies; and
- monitor and report on the impact of change on the disadvantaged – competition will have failed if it does not bring benefits for all.

² 'Modern markets: Confident consumers' - <http://www.dti.gov.uk/consumer/whitepaper/overview.htm>

³ Comparative Report on Consumer Policy Regimes - <http://www.dti.gov.uk/ccp/topics1/pdf1/benchmain.pdf>

⁴ A Fair deal for consumers: Modernising the Framework for Utility Regulation : http://www.dti.gov.uk/urt/gas_elec.pdf

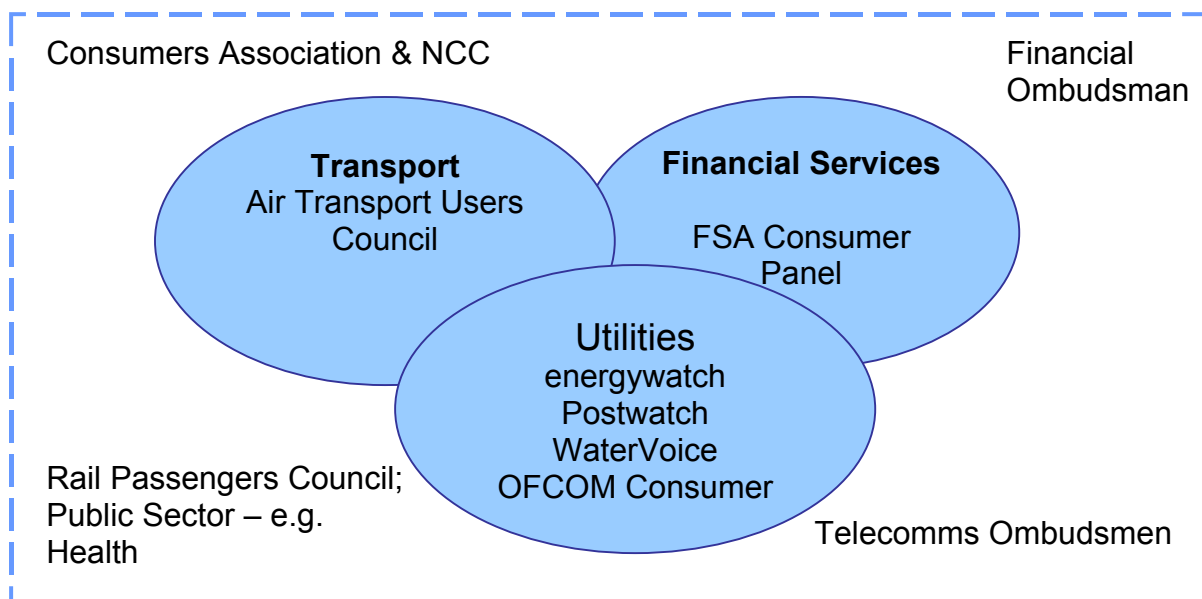
- 1.5 Increasing competition in many of the utility sectors has provided significant benefits for many consumers. In energy and telecommunications markets, consumers have a choice from an increasing number of suppliers and an array of different tariffs. In this phase of market development, strong consumer bodies can play an important role in articulating the consumer interest, ensuring that suppliers take their responsibilities to customers seriously and providing the high quality information and advice needed for consumers to take full advantage of competitive markets and to shop around to get the best deals available.
- 1.6 Influential consumer councils and well-informed consumers therefore have a vital transitional role to play in newly competitive markets in improving standards, encouraging switching and lowering prices. The need for effective consumer representation is equally strong, if not stronger, in those markets in which customers do not have a choice of supplier or where competition is restricted.
- 1.7 Beyond the utility markets of energy, water, fixed-line telecommunications and postal services, there are a number of other regulated markets where consumer representation is also important. Regulation of specific markets arises as a response to market failure and risks to consumer welfare, such as information shortfalls and restricted competition. In all regulated markets, protecting and promoting consumer interests needs to be a principal objective. Consumer representative bodies and panels have an important role to play in this.
- 1.8 Six years on from the Utilities Review, and three years from the creation of independent statutory consumer bodies in energy and postal services, consumer representation is now a substantial feature of the regulatory landscape. In 2002/3, the five main sectoral consumer bodies⁵ spent just under £25million, employing over 800 staff and representatives, based in 27 offices across the UK. Between them these bodies handled 164,000 complaints in 2002/03 and over 115,000 enquiries⁶.
- 1.9 This report seeks to take stock of progress since the Utilities Review. Its objective is to assess the efficiency and effectiveness of consumer representation in regulated markets, sharing best practice and developing a set of recommendations to further enhance the effectiveness of consumer bodies in the medium term. It also proposes a new model for sectoral consumer representation for the future.**
- 1.10 The scope of this report is drawn wider than the utilities. Some of its findings and recommendations are also addressed to consumer bodies in air transport and financial services. However, it also has regard to the broader consumer environment by taking into account the role played by Consumers Association and the National Consumer Council. It draws on the experience of the Financial Ombudsman Service and the Rail Passenger Council and Alternative Dispute Resolution mechanisms in the communications sector, such as Otelco.
- 1.11 The Government is currently engaged in a wide-ranging review of the rail industry, including consideration of the structural and organisation changes needed

⁵ energywatch, Postwatch, WaterVoice, FSA Consumer Panel and Air Transport Users Council. Figures exclude OFCOM consumer panel as it was only established in 2004 and the Rail Passengers Council – see para 1.11.

⁶ Source: PricewaterhouseCoopers benchmarking study. note that there is not consistency between how consumer bodies classify enquiries and complaints.

for the railways to operate more effectively for customers.⁷ Consumer representation in the rail sector needs to be viewed in this wider context and so falls outside the scope of this report and its recommendations. The project team wishes to acknowledge, with thanks, the significant input made to this project by the Rail Passengers Council, the Office of the Rail Regulator, and the Strategic Rail Authority. The Rail Passengers Council gave generously of their time, and we were able to draw on their experience and processes to find examples of best practice, which influenced the final recommendations in this report.

Figure 1: Scope



1.12 The project has drawn on desk research and stakeholder interviews, as well as an externally commissioned benchmarking study by PricewaterhouseCoopers (PWC). This study, which was jointly funded by the National Audit Office and the Department of Trade and Industry, focussed primarily on energywatch and Postwatch, but also drew comparisons with a range of organisations, including sectoral and general consumer bodies. A ‘Friends Group’ of stakeholders drawn from consumer groups, regulated markets, the regulators and academia met twice during the project to provide strategic direction and feedback on emerging conclusions. The project team is extremely grateful to all those who contributed their time, wisdom and energy.

⁷ Alistair Darling made a statement to the House on Monday 19 January announcing a review of the rail industry which will look at progress being made with the increased investment in the railways; the structural and organisation changes needed so the railways can operate more effectively for its customers, with clear lines of accountability and responsibility, including the regulation of safety. The review rules out as little as possible so as to come up with the best solution. The principles for the review are that: railways must operate in the public interest; maintain commitment to public and private partnership; and maintain commitment to independent economic regulation. The review is being undertaken within Government (though consultants have been brought in to assist) and is drawing on the views of the industry. Its conclusions will be announced in Summer 2004.

2. Consumer representation today

- 2.1 The Utilities Review and subsequent reforms put consumer interests at the heart of utilities regulation. Regulators were given a primary objective to further the interests of consumers; greater emphasis was placed on promoting competition; and statutory consumer bodies – such as energywatch and Postwatch – were established to represent consumer interests in those sectors. As a result of the Water Act (2003), a similar body is being set up in the water industry. Although formal separation of Ofwat and WaterVoice is not expected until October 2005, WaterVoice has operated largely independently from Ofwat, the industry regulator, since 2000.
- 2.2 In many cases it is a primary duty of the Regulator to protect the interests of consumers⁸. Where this is the case, protecting the interests of consumers becomes an overriding objective for the regulators. However, the regulators' interpretation of the consumer interest will on occasion need to be conditioned by other statutory duties and objectives, whereas the consumer bodies are free to act and advise from the consumer viewpoint alone. Regulators often have a number of enforcement powers to help them achieve their statutory duties and objectives. Consumer bodies on the other hand do not have enforcement powers and often rely on other tools such as publication of comparative information.
- 2.3 Different statutory arrangements apply in other regulated markets. The Financial Services and Markets Act 2000 and the Communications Act 2003 set up the Financial Services Consumer Panel and the OFCOM Consumer Panel respectively. These panels are different in nature to the statutory bodies established in postal and energy markets. They do not handle customer complaints, which are addressed through Ombudsman or Alternative Dispute Resolution schemes. They also are more closely connected to the regulator, and play an advisory role. However, in practice, both FSA and Ofcom have encouraged their consumer panels to operate with a high degree of autonomy, and their independence enjoys considerable protection. Arrangements for consumer representation in the transport sector have not undergone significant statutory change in recent years.
- 2.4 Consumer representation in regulated markets now has a higher profile and is better resourced than in 1998. Although each of the consumer bodies differs in its approach and practice, they each have an important role in delivering the Government's objectives for consumer policy and regulation. Alongside this, most consumer bodies engage with companies and handle consumer complaints. All, to varying degrees, undertake research to further their understanding of consumer needs and behaviour in their respective markets.

The economic rationale for consumer representation

- 2.5 Underpinning the policy decisions that emerged from the Utilities Review, there is an economic reality that reinforces the need for consumer representation in each of these regulated markets. The essential nature of each of these services, the risk of



















⁸ The regulators for gas and electricity, water (from 2005), telecommunications and rail have objectives to (broadly) promote or protect the interests of consumers. The Postal Services Commission has a primary duty to ensure the provision of a universal postal service. Subject to this primary duty, Postcomm is required to promote effective competition. The Financial Services Authority has regulatory objectives to maintain confidence in the financial system; to promote public understanding of the financial system; to secure the appropriate degree of protection for consumers; and reduce financial crime, in that order.

significant consumer detriment, and in some cases the limited nature of competition all mean that there will be a need for some form of consumer representation in these markets in the foreseeable future.

2.6 Table 1 maps out four market characteristics that together support the requirement for specialist consumer representation:

- the degree of monopoly power exercised within the market. Competition does not necessarily remove the need for consumer representation, but consumer bodies may be particularly important in monopoly sectors where customers cannot change suppliers;
- the extent to which the product is an essential service and the proportion of regulated activity that can be considered as such;
- informational problems and other supply side market failures that impact upon consumers e.g. mis-selling; and
- the size of the market.

Table 1: Market characteristics that justify sector-specific consumer representation

	Water	Energy	Post	Comms	Financial Services	Air
Degree of monopoly power						
Degree to which it is an essential service						
Degree of information problems in the market						
Market size (Annual household spend £m ⁹)	£5,493	£15,038	£884	£14,629	n/a	£10,590

-  - High
-  - Medium
-  - Low

2.7 This model, while simple, is helpful in understanding the need for different models of consumer representation in different markets. The degree to which each of these

⁹ Source: Consumer Trends 2003, No 31. www.statistics.gov.uk

characteristics is present at a given point in time can help in assessing the necessary resources that should be channelled into consumer representation in a particular market.

Box 1: Applying the model to water and air travel

Limited competition in the water industry, together with the extent to which it is an essential service, supports the case for a relatively high level of consumer representation as compared to air transport, where these factors are less present. This does not suggest that consumer representation in air transport is unimportant, but that fewer resources may be needed to support it.

2.8 However, the model is not intended to encompass all relevant factors. There are a number of other factors that are relevant to decisions over consumer representation, such as:

- the degree of market maturity;
- the complexity of products and market institutions;
- the degree of infrastructure constraints that limit the exercise of competitive freedom; and
- the degree to which today's market developments may have longer-term implications.

2.9 It is important also to note that the market characteristics outlined in Table 1 are not set in stone. Indeed, effective consumer representation should seek to reduce consumer detriment and to press for increased competition, so that over the longer term the extent of sector specific consumer representation – and indeed regulation – may itself reduce. Market changes mean that new problems can arise, and competition will not necessarily eradicate all of the causes of consumer detriment. Nevertheless, the form of consumer representation in a sector - and the resources devoted to it - should be reviewed regularly over time to ensure it continues to be proportionate to need. An assessment of the risk of consumer vulnerability is also a valid consideration here.

3. Emerging issues

- 3.1 Since 1998, the sector-specific consumer bodies have registered significant achievements. The new bodies have established themselves, developing their own forward work programmes, increasing their credibility and recognition among stakeholders and establishing patterns of working. energywatch and Postwatch, in particular, have got to grips with the high levels of customer complaints that they received following establishment and receive generally positive feedback from customers about the service received¹⁰.
- 3.2 Each of the consumer bodies is able to point to the positive effects that they have had on particular aspects of market behaviour or regulatory decisions. Examples of good practice are set out throughout this report. These achievements are testimony to the hard work and commitment of all those who work for these organisations.

Box 2: energywatch and doorstep selling

The decision to launch the **Stop Now!** campaign to stamp out poor selling practices was driven by a 50 per cent rise in complaints received by energywatch about marketing from January 2001 to October 2001. Towards the end of 2001 marketing and subsequent erroneous transfers were accounting for 40% of all energywatch complaints. energywatch launched the Stop Now! Campaign in November 2001, with the aim of working in collaboration with the regulator, industry, MPs and other consumer groups to find workable solutions. The campaign was successful.

As complaints relating to marketing continued to increase, energywatch called a summit in summer 2002 to assemble Chief Executives, Ofgem, the DTI and consumer groups to look for immediate solutions and impress on industry the seriousness of the issue. The Energy Minister, Brian Wilson, attended and issued the industry with an ultimatum to tackle mis-selling or face stiffer regulation. The outcome of this was an agreement between all parties to establish a Working Group to develop a code of practice, a training and registration programme for sales agents and a proposal to consider introducing compensation. Concurrently Ofgem was investigating London Electricity for breaches of the new marketing licence condition. energywatch provided Ofgem's investigation team with case studies and statistical analysis, resulting in Ofgem imposing a financial penalty on London Electricity of £2million for licence breaches. This was the first time that Ofgem had imposed a penalty since it gained full financial penalty powers earlier in the year.

Since the summer of 2003 energywatch has worked closely with Ofgem in the development of a new marketing licence condition. Presentation and analysis of complaint statistics helped inform Ofgem's consultation document and subsequent decision document.

- 3.3 A number of issues have become apparent, however, in the operation of consumer representation in practice. These issues relate to the framework for consumer representation as a whole and the identification of such issues does not imply

¹⁰ Registering 84% and 79% customer satisfaction levels for energywatch and Postwatch respectively for their complaint and enquiry handling service. Source: PricewaterhouseCoopers benchmarking study, page 66.

criticism of any individual consumer body or third party. Some of these issues are common to both consumer bodies and panels across regulated markets.

- The resources devoted to sectoral consumer representation are spread across five organisations and twenty seven regional offices¹¹. This risks **dissipation of effort and duplication of resources**. Given that many of these organisations are small to start with, further fragmentation regionally risks a loss of economies of scale, increased costs and makes it difficult to develop strong institutional competences in areas such as project and programme management.
- Consumer representative bodies may become **unduly reactive**: responding either to the regulators' programme of consultation documents, or to complaints. An important source of added value from consumer representation is to highlight and bring to prominence those issues that could affect consumers in future, or that are not currently high on the regulators' list of priorities.
- Consumer bodies may target and attempt to influence those aspects of company performance or regulatory decision-making that are easiest to measure, rather than those which have the greatest positive impact on customers. Measuring performance, particularly in terms of delivering improved market outcomes has proved challenging in all sectors. Some consumer bodies do not currently have the processes in place to **measure impact** of their activities and campaigns.

3.4 Some issues appear to be more pertinent in those sectors where there are independent statutory bodies.

- Under the current statutory arrangements, some independent consumer bodies have a statutory duty to handle consumer complaints. In this circumstance, there is a risk that consumer representatives may spend too much of their time dealing with effects of consumer dissatisfaction (eg **complaints**). This may undermine incentives on suppliers to resolve customer concerns promptly and efficiently, if customers complain to the consumer body rather than to them, especially if the supplier perceives that the risk of regulatory intervention is low.
- A **confrontational relationship** can develop between the regulator and the consumer body. Although there will inevitably be disagreement on particular issues, the relationship is expected to be constructive. However, at times, difficult relations between consumer body and regulator have resulted in reduced effectiveness of both¹². An excessively adversarial stance can give rise to increased costs and delays and to the risk of undermining the credibility of the regulator.

3.5 Given the successes to date and also the emerging risks, this is an opportunity to step back and look strategically at how best to maximise the effectiveness of consumer representation across a range of regulated markets. For energywatch and

¹¹ Some of the bodies do have a statutory obligation under current legislative arrangements to have one regional office in each of England, Wales, Scotland and Northern Ireland.

¹² PricewaterhouseCoopers found evidence that the confrontational stance adopted towards each other by Postwatch, Postcomm and Royal Mail, in particular, has been a costly influencing strategy in terms of both time and money. Source: PWC benchmarking study, page 48.

Postwatch, the focus over the past three years has been on setting up the respective organisations and overcoming operational challenges. With these issues largely resolved, both bodies now recognise that the next stage of their development will involve adopting a more strategic approach in addressing systemic problems. This will build on achievements to date in terms of influencing the regulatory agenda and company behaviour. Equally, this is an opportunity for consumer bodies in air transport and financial services to build on the success of their organisations/panels and to ensure that they deliver real benefits to consumers and effect change in their respective markets. The new bodies currently being set up in communications and water can use the outcomes of this project to ensure that their organisations grow to be effective consumer advocates.

4. A vision for the future

- 4.1 The findings and recommendations of this report are focused on the effectiveness of consumer bodies over the next three to five years. These recommendations are underpinned by a vision of successful consumer representation that achieves measured improvements in the quality of services. **This vision is of strategic and proactive consumer bodies, offering good value for money for the customer and operating within a framework that works well for all consumers.**
- 4.2 Each of the organisations under consideration needs to become more strategic and proactive in its approach to consumer representation. This requires consumer bodies to concentrate resources where they are likely to have the biggest impact both for consumers generally and vulnerable consumers in particular. Consumer bodies need to monitor their outcomes and impact.
- 4.3 It is essential that consumer bodies covered within the scope of this report demonstrate good value for money, particularly as customers or taxpayers ultimately provide their funding. In some sectors it will be necessary to look critically at the structure of regional representation. Where regional representation is required, consumer bodies need to maximise the benefits and ensure that such representation is cost effective and adds value to customers. Complaints handling must meet the needs of consumers for redress and advice, but must place clear incentives on companies to reduce consumer detriment and reduce the number of complaints being passed on to consumer bodies by delivering a high-quality service.
- 4.4 Lastly, the framework for consumer representation in regulated markets must work well for all consumers. Consumer bodies, regulators, companies and government need to work together in ensuring consumers are getting a good deal in regulated markets. Consumer bodies need to continue to engage strategically with regulators, companies, and other stakeholders in addressing market failures and consumer dissatisfaction at source. They also have an important role to play in empowering consumers.
- 4.5 The following sections set out how this vision may be delivered and focus on achieving greater effectiveness for the consumer bodies in the medium term. The recommendations in this report are based on best practice. They are not targeted at specific consumer bodies, and in some instances will have limited applicability to some bodies because of certain statutory duties or organisational arrangements in a particular sector.

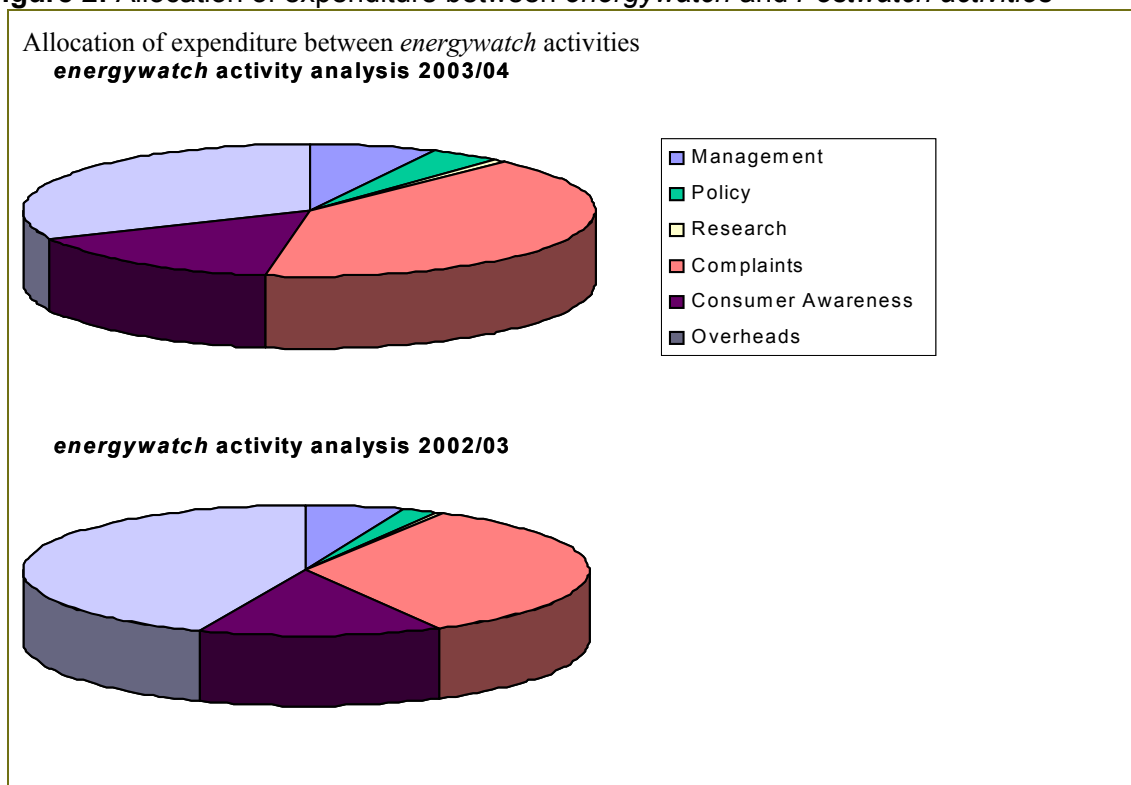
5. Proactive and strategic consumer bodies

5.1 Consumer bodies have a wide remit and carry out a range of different functions, including policy influencing and campaigning; complaint-handling¹³; consumer education and research. To represent consumers effectively, they need to respond to customer needs and concerns; changes to the range, price and quality of products and services on offer; changes to Government policy and regulatory decisions and changes in the marketplace such as the level of competition.

5.2 However, with such a wide remit and a degree of overlap between consumer bodies and regulators that have a duty to promote consumers interests, it is vital that consumer bodies ensure that they add value. Consumer bodies need to make clear, well-founded strategic choices about what they do and adopt a proactive approach to consumer advocacy, rather than solely reacting to external events. Complaint handling and research are important functions. However, they should provide the evidence base by which to support regulators in identifying and address underlying market failures, to increase consumer empowerment and to deliver change to the benefit of customers.

5.3 Figure 2 below illustrates the current allocation of resources by energywatch and Postwatch between their different functions. For energywatch the key drivers of costs are complaint-handling and overheads¹⁴. For Postwatch¹⁵, complaint-handling and its work on the Post Office network are the largest activity drivers.

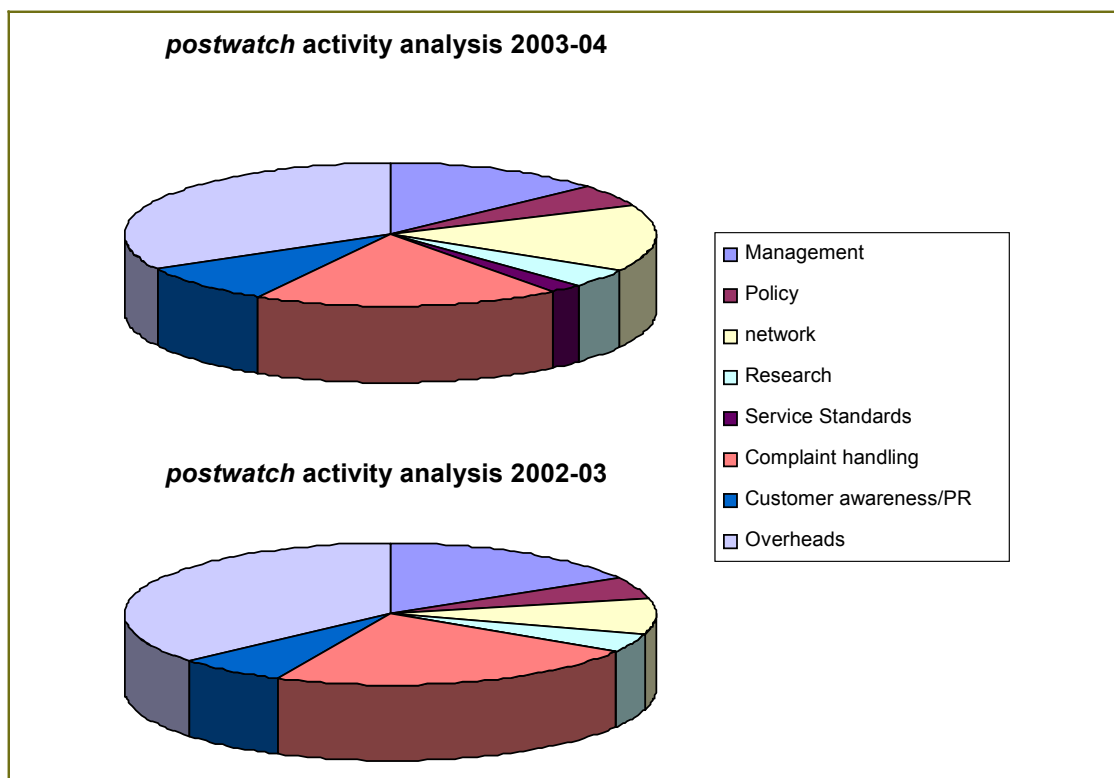
Figure 2: Allocation of expenditure between *energywatch* and *Postwatch* activities



¹³ Postwatch, RPC, AUC, energywatch, WaterVoice only

¹⁴ Source: PricewaterhouseCoopers Benchmarking study, figure 17. 40% of costs in 2003/04 allocated to complaints handling and 32% to Overheads.

¹⁵ Source: PricewaterhouseCoopers Benchmarking study, Figure 22. 15% of costs in 2003/04 allocated to Network and 19% to complaints handling



5.4 Over this period the main changes of expenditure for energywatch have been an increase in complaints handling costs from 35% of total spend in 2002/03 to 40% in 2003/04 and a decrease in overheads from 44% to 32%. For Postwatch, complaints handling costs have fallen from 23% to 19% over the same period.

Maximising impact

5.5 Consumer bodies are constantly faced with choices between competing demands on resources. Without clear prioritisation and leadership, consumer organisations may become involved in debates or issues that are not directly related to their core strategic objectives or that are best handled by another organisation. An expectation can develop that small bodies operating in the public arena – dealing with relatively complex markets that are often in the media spotlight – have to react to all market developments. It is sometimes difficult for such organisations to turn down these requests.

5.6 To ensure that consumer bodies effect real change for consumers in their respective markets they should concentrate their resources where they will have the biggest impact. For example, regulators generate a large number of consultations and some consumer bodies state that they seek to respond to all consultations generated by the regulator. However, in markets where there are numerous consultations on a wide range of issues¹⁶, attempting to respond to all consultation documents could divert resources away from the consumer body's other functions. Judging impact is not necessarily an aggregate calculation across all consumer groups. Impact also needs to be considered specifically for vulnerable consumers.

¹⁶ For example, in April 2004 Ofgem had 19 'live' consultations; OFCOM had 14.

5.7 When deciding whether to commit resources to address a particular issue, consumer bodies need to have regard to explicit criteria, such as the following:

- the degree of consumer detriment;
- whether there is a realistic opportunity for achieving a positive outcome in the short or long run;
- the capability of the consumer body, compared with others, to address the issue;
- degree to which the issue will be more suitably addressed by another organisation;
- the impact on vulnerable groups - and other statutory responsibilities - of addressing the issue; and
- the extent to which it is an issue of direct concern to consumers or is likely to be so in future.

These simple criteria could be developed by individual consumer bodies to devise a framework to assist in prioritising objectives and allocating resources. The OFCOM Consumer Panel have proposed a framework, based upon similar principles, by which they will prioritise their resources. This is illustrated in Box 3 below.

5.8 Campaigns and other proactive workstreams need to be founded on a strong evidence base. Good research is essential for the credibility of campaigns and for maximising impact. Complaints data can provide some valuable evidence for problems in regulated markets. However, complaints by their nature are self-selecting and backward-looking and should not be the sole or principal source of evidence. Complaints data alone may not be sufficient to identify all the issues that affect consumers adversely. In setting priorities, broadly based and forward-looking research is essential to complement the evidence of consumer detriment contained in complaints data.

Box 3: Ofcom Consumer Panel

The Ofcom Consumer Panel, established under Communications Act 2003 has drawn up a short list of principles that will direct how it sets its priorities amongst the long list of things that it could tackle. Its proposed principles are:

- **Relevance:** is this an issue that consumers have identified as a relevant concern in the annual Consumer Survey or which for other reasons the Panel believes is important for consumers?
- **Detriment:** is there evidence of a real and significant risk of consumer detriment?
- **Practicality:** is this a matter to which the Panel could add value (ie others are not already engaged on the consumer issue) and for which some practical solution can be found?
- **Vulnerable groups:** would tackling an issue address the requirements and needs of consumers in one of the special categories they have identified?

The Panel plans to inform itself about the current state of concern, and of knowledge, on the part of consumers in the communications marketplace. The Panel does not consider that complaints alone provide a sufficiently robust basis to underpin their policy development. The Ofcom Consumer Panel has decided that it will operate on the basis of research-based evidence.

In order to do this, it will commission and manage a major piece of research across the whole market place. It is intended that this research will be repeated, probably on an annual basis, in order to give a developing picture of the marketplace from a consumers point of view.

5.9 A further initiative to bolster the evidence base and to increase transparency is to hold consumer committee meetings in public, as is the case with WaterVoice, for example. These open meetings allow consumers to hear at first hand the issues which the committees are proposing to address and – in WaterVoice meetings – to hear the views of the service providers.

5.10 Equally, it is essential that individual projects and campaigns are properly managed to ensure that results are delivered. PwC highlighted this as an area for improvement. Applying project management skills to individual objectives and campaigns ensures that resources and expertise are channelled properly and effectively. Project management includes the following steps:

- identifying, in a formal and consistent way, the desired outcomes at the start of any campaign;
- developing a detailed plan for achieving these outcomes;
- determining a methodology to test whether outcomes have been achieved satisfactorily;
- monitoring performance towards achieving the desired outcomes;
- evaluating the impact of each project, after completion.

5.11 To maximise benefits to consumers, it is necessary for sectoral consumer bodies to think creatively about the most effective means of achieving positive outcomes. For example, a consumer body may identify issues where the likelihood of achieving a positive outcome is constrained by barriers over which other stakeholders have more direct control. It may be most effective, in these circumstances, for the consumer body to bring these potential barriers - and their impact on customers - to the attention of these other stakeholders, before concentrating their own resources. In other cases, it may be possible to work in close partnership with another organisation that has closely aligned objectives, such as another consumer organisation or, in some instances, the regulator.

Recommendation 1.

Consumer bodies should target resources where they will have the maximum impact, by:

- developing and publishing clear criteria by which they will prioritise activities;
- conducting rigorous research into those issues that currently have the greatest impact on consumer welfare and are likely to do so in the future and using this in formulating strategies and priorities;
- developing clear and complete forward work programmes in consultation with their main stakeholders;
- applying rigorous project and programme management techniques to all campaigns and activities and developing excellence in this area, possibly through joint training; and
- focusing on the outcomes for consumers of their actions, and the most effective means of securing those outcomes.

Measuring outcomes

5.12 Performance measurement is an important method by which consumer bodies can monitor the progress of their organisation and the success of particular initiatives. This is a challenging area for all sectoral consumer bodies. It is often more straightforward to measure inputs, or processes, rather than those outcomes that are often most important. Unlike private sector companies, there are no simple metrics, such as profitability or shareholder value, by which different types of activity can be compared. In achieving policy change, it can be difficult to disentangle the impact of any one organisation on the final outcome.

5.13 However, the existence of these challenges associated with measuring outcomes should not prevent consumer bodies and where appropriate their Departmental spending teams, from seeking to develop meaningful measures of performance, without which it is not possible to evaluate performance. To address the complexities associated with this issue, consumer bodies need at least three levels of performance indicators:

- To ensure operational effectiveness, consumer bodies should ensure they monitor performance of **operations**, for example consumer satisfaction with complaints handling. These indicators should be monitored over the longer term – and should remain consistent in terms of measurement.
- Outcome-focused performance indicators should be set for specific **campaigns or initiatives**. At the outset of each initiative, desired outcomes should be defined and indicators should be identified by which it would be possible to evaluate whether or not outcomes have been achieved. For example, when initiating a particular campaign, consumer bodies need to ask themselves what ‘success would look like’ and how they intend to measure progress toward meeting their desired outcomes.

- Consumer bodies also need to measure impact at an aggregate level. To be effective, consumer bodies need to be heard and respected by their key stakeholders. **Stakeholder surveys** provide a useful benchmark and feedback loop from those organisations that consumer bodies are seeking to influence.

Box 4: National Consumer Council's approach to measuring impact

PricewaterhouseCoopers identified the National Consumer Council's (NCC) approach to measuring impact as best practice. NCC measures *Impact* (on decision makers, on legislation, and on consumers) and their *Reputation* (as they consider that their reputation is directly related to the level of influence they are able to exert). To that end they have developed a hierarchy of performance measures and indicators for "Impact" and "Reputation", which aim to measure the outcomes of their work rather than focusing on outputs or processes.

Impact is measured on a case study basis. Individual project quality, impact, and degree of influence exerted, are assessed through a variety of sources, e.g. meetings with stakeholders, seeking formal and informal feedback from partners and stakeholders, press cuttings and media reports. This material is used to develop an internal assessment of the project, and subsequently an external adviser will review and assess the project, in accordance with the following criteria:

- whether the project was carried out to plan and timetable;
- what issues arose on the project, and why, and evaluate how these issues were addressed;
- what peer reviewers thought of the quality of NCC's work;
- what reviewers thought of NCC's collaborative skills;
- how much profile was generated and whether its tone was negative/ positive, supportive or not;
- how successful the project has been in influencing and achieving change; and
- how the outputs were received by stakeholders.

NCC considers its reputation to be a critical success factor for its ability to work with, and influence opinion- formers and decision-makers in a range of policy sectors across the UK. It is measured through a series of qualitative and quantitative surveys on decision makers and partnering consumer organisations whose views are sought on a range of factors, e.g. effectiveness, profile, strengths and weaknesses, to derive an assessment of its reputation. These surveys are repeated on an annual basis.

Recommendation 2

Consumer bodies and their spending teams should work together to develop meaningful measures of performance. To address the complexities associated with this issue, consumer bodies need three levels of performance indicator:

- **measures of operational effectiveness, which should be monitored over the longer term and should remain consistent in terms of measurement;**
- **outcome-focused indicators of success for specific campaigns or initiatives; and**
- **aggregate measures of impact and reputation, such as stakeholder surveys.**

Supercomplaints

5.14 Consumer bodies should seek to use existing consumer and competition law to achieve change. For example the AUC have been proactive in the past engaging with the Office of Fair Trading as a route through which to secure good outcomes for consumers. Postwatch has also been proactive in working through OFT by submitting two informal super-complaints.

Box 5: AUC proactive initiative on airlines' contracts with passengers

The AUC had repeatedly pressed the European Commission to study airline conditions of carriage. A report, published in July 1997, concluded that a number of the terms of these contracts were unfair to passengers.

In the light of this report, International Air Transport Association (IATA) task force reviewed IATA's own Recommended Practice on General Conditions of Carriage (RP1724). The changes to RP1724 that were subsequently adopted by IATA did not meet all of AUC's concerns. The Commission nevertheless remained unwilling to consider bringing forward any proposals for legislation at least until all other avenues for bringing about improvements had been explored. In particular, it looked to Member States to apply the EC Directive on Unfair Terms in Consumer Contracts to airlines' contracts with passengers.

In January 1999, the AUC submitted a formal complaint to the Office of Fair Trading (OFT) about RP1724. The ensuing discussions between the OFT and IATA resulted in a new, more customer-friendly, version, which was formally adopted by IATA in June 2000.

5.15 The Super-complaint provisions are new under the Enterprise Act. Under the new legislation the relevant competition authorities must provide a formal response as to its proposed action within 90 days of receipt of a super-complaint submitted by designated appointees. The provision is an important tool by which consumer bodies can achieve positive outcomes providing an important channel whereby market intelligence gained by the consumer body can be fed into the regulatory process. Consumer bodies in regulated markets can use super-complaints to address systemic problems identified in the market through their own research, interface with consumers, or in some cases complaint-handling. They are in a strong position to gather the necessary evidence of a problem. The merits of these provisions need to be recognised by both consumer bodies *and* regulators. Super-complaints provide benefits to both parties:

- the process encourages consumer bodies to gather high quality data and provide a well-evidenced case by the prospect of a fair hearing; and
- a super-complaint is an opportunity for regulators to use this market intelligence to investigate reported problems in the market that are having a detrimental effect on consumers.

5.16 Energywatch and WaterVoice have applied for super-complaint status. There is a strong case for Postwatch also applying for super-complaint status. Consumer panels in financial services and communications, and the Air Transport Users

Council should seek to develop partnerships with appointed bodies through which they could channel any potential super-complaint if and when necessary.

- 5.17 Alternative Dispute Resolution bodies (ADRs) such as Otelo and the Financial Ombudsmen Service may not meet the necessary criteria for super-complaint status due to their neutral status. However, these organisations collate and analyse important data on consumer experiences in their respective markets. It is vital that the regulator and consumer bodies continue to be able to harness this market intelligence, so that systemic problems emerging in a market can be identified and tackled.

Recommendation 3.

The super-complaint provisions of the Enterprise Act provide opportunities for consumer bodies and regulators. To maximise this opportunity:

- **Postwatch should apply for super-complaint status;**
- **consumer panels in financial services and communications, and the Air Transport Users Council should seek to develop partnerships with appointed bodies through which they could channel any potential super-complaint if and when necessary; and**
- **market intelligence collated by Alternative Dispute Bodies (ADRs) should continue to be made available to regulators and consumer bodies on a timely and comprehensive basis.**

6. Value for Money

6.1 Customers or taxpayers ultimately provide the funding for sectoral consumer bodies. It is therefore essential that their services represent good value for money. Over the past 3 years, the costs of running some of the consumer bodies have increased notably. This has largely been driven by increases in the number of complaints that have been unresolved between the companies and consumers, and that in some cases statutory consumer bodies have a duty to act upon. As a result it is timely to assess whether the current framework for consumer representation in the sectors covered by this report delivers value for money.

6.2 This section of the report draws largely on a study by PwC commissioned jointly by the DTI and NAO¹⁷. The focus of the PwC report was mainly on energywatch and Postwatch, although other sectoral consumer bodies were used for comparative purposes. As Table 2 shows, there are considerable differences between the budgets of the different consumer bodies. In 2003, these varied from £400,000 (Air Transport Users Council) to £12.4m (energywatch).

Table 2: Income and Expenditure 2002/03

	E'watch	P'watch	W'voice¹⁸	AUC	FSCP
<i>Geographic coverage</i>	<i>Great Britain</i>	<i>UK</i>	<i>England & Wales</i>	<i>UK</i>	<i>UK</i>
Income £m	12.4	7.8	3.2	0.4	0.6
Expenditure £m ¹⁹	10.9	7.8	3.2	0.4	0.6
Cost per household per annum £'s ²⁰	0.52	0.32	0.15	0.02	0.03
Cost as a % of total industry turnover	0.1%	0.9%	0.1%	0%	n/a
Consumer body expenditure as a % of Regulator spend	35%	130%	28%	3.6%	0.28%

6.3 While it is difficult to compare the costs of different models of consumer representation, evidence suggests that independent statutory bodies are approximately ten times more expensive to run than organisations embedded in the regulator, such as the Financial Services Consumer Panel. **This difference in costs is driven by two related factors: the extent of regional activity and the degree to which complaint handling is a core function of the consumer body.** Both of these are factors are driven to some extent by statutory duties. For example, consumer bodies in energy, postal services, and water have statutory obligations to handle complaints. These bodies are also required to have a minimum number of regional offices²¹. However, significant resources are devoted to maintaining regional office

¹⁷ Benchmarking review of energywatch and Postwatch, March 2004. Available on the NAO website later this year.

¹⁸ The new Consumer Council for Water established in the Water Act 2003 is expected to cost in the region of £6m when it is up and running in 2005.

¹⁹ Excludes non-cash adjustments of depreciation

²⁰ Based upon 21.7m households in England and Wales and 2.2 in Scotland, Northern Ireland 0.6m (Census 2001).

²¹ Energywatch and Postwatch are required to have one office and one committee in England, Wales, Scotland (and Northern Ireland for post). WaterVoice is required to have regional offices in England and Wales only.

networks. For example, Postwatch has 113²² staff across 9 offices, and energywatch has 303 staff in 8 offices. Typical activities for regional offices include complaint handling, liaison with local interests, monitoring of local issues and providing support to regional committees²³.

6.4 Sectoral consumer bodies add most value through their roles in developing policy and influencing stakeholders, in relation to systemic market failures. Their activities in handling enquiries and complaints from individual consumers are important in informing this work. Access to redress is also important for consumers. The organisational design of these bodies should, however, give primacy to the key value adding role of policy development and influencing.

6.5 The costs of complaint handling and of maintaining a regional network of offices account for a high proportion of the total expenditure of energywatch and Postwatch, as can be seen from Table 3 below. Cost of complaint handling in Financial Services and Telecomms is borne by alternative dispute resolution schemes such as the Financial Ombudsmen Service.

Table 3: Costs of handling complaints and maintaining a regional presence²⁴

		energywatch ²⁵ £m		Postwatch £m	
		2002-03	2003-04	2002-03	2003-04
Total costs for the year		10.9	13.0	8.2	10.2
Regional	Complaint handling	3.7	5.3	1.5	1.2
	Other	1.9	2.4	0.6	1.3
Total regional cost (% of total cost for the year)		5.6 (51%)	7.7 (59%)	2.1 (26%)	2.5 (24%)
Central office	Complaint handling	-	-	0.4	0.7
	Other	5.3	5.2	5.7	7.1
Total complaint handling (% of total cost for the year)		3.7 (34%)	5.3 (41%)	1.9 (23%)	1.9 (18%)

6.6 As Table 3 shows there are significant complaint-handling functions undertaken within regional offices. This may be less efficient than consolidating the function into one single location. In making an assessment of the purpose and value for money of regional structures, it is therefore important to consider first the complaint-handling functions. For those bodies with regional offices, the amount of pure regional activity relating to complaints handling is small.

Enquiries and Complaint-handling

²² Figure excludes 15.5 casual posts (mostly for Network Reinvention support work)

²³ Energywatch does not have regional committees.

²⁴ Source: PricewaterhouseCoopers benchmarking report, page 4, figure 2 and 4.

²⁵ energywatch regional costs exclude accommodation costs, which were £1,058,000 in 2003/4.

6.7 Handling enquiries and complaints is the principal way in which sectoral consumer bodies have direct contact with consumers. Enquiries include information requests and giving advice. Complaints on the other hand involve a greater input from the sectoral consumer body through engaging with the relevant supplier on behalf of the consumer.

Table 4: Comparative enquiry and complaint-handling data in 2002/03

	No. of Enquiries	No. of Complaints
Energywatch	70,840	109,578
Postwatch	13,101	40,178
WaterVoice	32,944	9,679
AUC	5,332	

6.8 Complaint handling is a key aspect of the regulatory system that needs to work well. It is also the most visible test of the effectiveness of a consumer body:

- consumers need to have the skills to be able to identify and take up their complaints against suppliers;
- vulnerable consumers need support in identifying problems and formulating complaints;
- companies should deal with these complaints adequately; and
- disputes need to be resolved quickly and effectively.

From the consumer's perspective, it is important that the different facets of a complaint are dealt with smoothly and efficiently. Equally, it is important that the right incentives are in place to ensure that companies respond quickly to rectify consumer complaints and to stem complaints at source.

6.9 In the initial start-up phase for energywatch and Postwatch, there has been an understandable focus on making these organisations and their services known to consumers as far as possible. The level of complaints received by both Postwatch (from 9,944²⁶ in 2001/2²⁷ to 61,000 in 2003/4), and energywatch (from 74,749 in 2000/1 to 90,000 in 2003/4) can be taken, in part, as evidence of increasing consumer awareness of the consumer bodies and of the help which they can give with unresolved complaints. A natural consequence of the increased numbers of complaints has been the devotion of considerable resources to complaint handling.

6.10 As these sectoral consumer bodies have begun to move on from the start-up phase, their focus has shifted away from being complaint-handling organisations, towards addressing consumer issues and concerns at source. Clearly, there needs to be a recognition that dealing with unresolved complaints on the current scale does not reflect success for the regulatory system overall. It is necessary for all stakeholders to develop a strategy to achieve a step change in complaint handling.

6.11 It is essential that companies in regulated markets should be incentivised to deal with their own complaints quickly and effectively. Unless there are complaint-handling procedures operated by the companies that are comparable with the best in the private sector, these companies will not provide the standard of service that consumers require and deserve. It will always be more difficult and time consuming for a consumer body to press home a legitimate complaint compared with a company dealing with it in-house. Companies must accept complete responsibility for

²⁶ 12,420 in 15 months to 31/3/2002

²⁷ Figure relates to a fifteen month period to 31 March 2002

resolving differences with their customers, and take the opportunity of the personal contact afforded by the dialogue to receive feedback and enhance the reputation of the company. In the water sector for instance, there is a statutory requirements for all water companies to have complaint handling procedures approved by Ofwat, after consultation with WaterVoice. This requirement is a key part of the strategy for getting water companies to resolve customer complaints effectively.

- 6.12 However, there will continue to be role for third parties in handling complaints and consumer enquiries. Inevitably, there will be a residual number of complaints that require resolution between consumers and companies. Vulnerable consumers need to be supported in taking forward complaints. At present, consumer bodies in air, energy, post and water carry out these functions. However, there is an opportunity for more efficient delivery of this role.
- 6.13 At present, the consumer bodies handle in total approximately 115,000 enquires per year at an average cost per enquiry of £57²⁸. From 2006-07, Consumer Direct will provide a common, one-stop first port of call for all consumer enquiries. This should enable the necessary re-alignment of resources within consumer bodies. It is envisaged that Consumer Direct will provide an accessible and cost-effective way of handling first tier enquiries and advice on behalf of individual consumer bodies, although, in practice, this will have to be tested.
- 6.14 There is also an opportunity to ensure that the delivery of complaint-handling function is as efficient and effective as possible. Handling complaints regionally prevents the exploitation of economies of scale and requires strong central management and control, not only to manage the varying workloads, but also to ensure that there is effective communication of best practice and latest developments across the organisation. These costs of handling complaints at a regional level appear to outweigh any associated benefits: for example, Postwatch estimates that 80 per cent of complaints received are of a general nature, rather than region-specific²⁹.

Alternative Dispute Resolution mechanisms

- 6.15 In other markets, notably financial services and telecoms, consumers are represented by consumer panels, which are incorporated within the sectoral regulators. In these sectors, Alternative Dispute Resolution bodies (ADRs) handle complaints. The core role for an ADR (an ombudsman in the case of telecoms and financial services) is to investigate and resolve, determine or make recommendations with regard to those complaints that the Ombudsman is empowered to investigate.
- 6.16 This approach to dealing effectively with disputes between customers and utility suppliers is also used in other countries. In Australia, for example, the Energy and Water Ombudsman (Victoria) facilitates resolution of complaints between consumers of electricity, gas, and water in the state of Victoria and those service providers who are members of the scheme. As with the UK Telecomms and Financial Services sectors, it is a condition of the relevant electricity and gas licences that the companies must be members of an appropriate ombudsman scheme. The costs of

²⁸ Source: PWC Benchmarking study, figure 26.

²⁹ Source: PWC benchmarking study, page 22.

the scheme are borne by member companies and authorities according to the number of complaints raised against each member.

Box 6: Complaints handling in the telecommunications and financial services sector

Under EC Directive 2002/22/EC and sections 52 and 53 of the Communications Act all telecommunications companies that have domestic or small business customers, will be required to be a member of a dispute resolution body.

The first such ADR, Otelo, is run and funded by major telecoms companies, and is approved by Ofcom and underpinned by legislation in the Communications Act 2003. Otelo determines complaints cases - their findings are binding on companies but not consumers - which are referred by consumers or service providers where there is failure to reach agreement on resolution of a complaint. Because Otelo is partly funded by subscription from the companies (currently set to recover 20% of budgeted costs) and partly by a charge on the relevant service provider (set to recover the remaining 80%) for each complaints case referred for action, there is a very strong incentive for service providers to resolve complaints from customers efficiently and to the customer's satisfaction. Otelo is the first established ombudsman for telecoms, but other, similar, schemes may be set up by the industry subject to the approval of the regulator. The Otelo model provides a practical example of what can be achieved by an industry-funded ADR.

In financial services, the Financial Ombudsman Service operates a similar scheme. Like Otelo, it is funded partly by subscription from member companies, and partly by a charge on the relevant service provider for each complaints case referred for action.

Generally, Ombudsman decisions on individual complaints are binding on the service provider and the consumer, only if the consumer accepts them. Consumers retain the option to reject the Ombudsman-recommended solution and adopt a different resolution route, perhaps through action in the courts. Sectoral consumer bodies do not have the same powers to determine outcomes for consumers, in part because they do not have the same degree of neutrality as an ADR body.

6.17 Companies should be at the forefront of handling complaints effectively. Only more complex cases should need to be referred to the consumer bodies or an ADR body, as appropriate. Consumer bodies should focus on improving the performance of companies in complaint handling, and should consider how best to handle dispute resolution.

Recommendation 4

Consumer representative bodies should work together with support of regulators and sponsor departments to develop a new strategy for complaint-handling, based on the following principles:

- companies in each sector should bear primary responsibility for handling complaints efficiently and effectively. There should be strong incentives on companies to adopt best practice in complaint-handling;**
- Consumer Direct will become the one-stop shop for all first tier consumer enquiries. Consumer Direct could deal with the majority of such enquiries with reduced need for referral to specialist bodies; and**
- complaints-handling by consumer bodies should be further consolidated regionally within each body to exploit economies of scale.**

Regional structure

6.18 Postwatch, energywatch and WaterVoice each operates a network of regional offices across England and Wales and, as appropriate, Scotland and Northern Ireland. These regional offices often handle complaints from consumers in their particular catchment area, liase with local stakeholders, engage with consumers and in some cases provide secretariat support to regional committees. Postwatch and WaterVoice each operate regional committees, which they use to support complaint investigation, to monitor performance of suppliers in their areas, to engage with local stakeholders and to identify issues of local concern to consumers,referring to their National Council for consideration where appropriate.

6.19 **Table 5** below shows the location of regional offices for the four largest consumer bodies. There is some degree of common location in some of the cities chosen but there is also a degree of diversity.

Table 5: Regional offices

Regional office locations	energywatch (8 offices) GB	Postwatch (9 offices) UK	WaterVoice (9 offices) England & Wales
London	**	**	*
Glasgow	*		
Edinburgh		*	
Cardiff	*	*	*
Belfast		*	
Newcastle	*		
Darlington			*
York			
Bradford		*	
Manchester	*		*
Birmingham	*		**
Stafford		*	
Bristol			*
Bournemouth	*		
Weymouth		*	
Exeter			*
Cambridge			*
Ely		*	

Key: * denotes one office; ** denotes two

Note: energywatch has a statutory obligation to maintain at least one office in each of England, Scotland and Wales (Utilities Act 2000, s.18(4)). Postwatch is required to maintain at least one office in each of England, Scotland, Wales, and Northern Ireland (Postal Services Act 2000 s.54(6)).

6.20 A regional presence may be appropriate and necessary, depending on the nature of the market failures being addressed. The Government believes that policy design should take place at the level at which the market failure is most effectively tackled. This principle was set out in March 2004 in “Devolving Decision-making: 2 – Meeting the regional economic challenge: Increasing regional and local flexibility”. This principle can be applied to the delivery of sectoral consumer representation. The need for a regional network of offices to deliver operations will depend on the level at which the market failure is occurring; the locus of decision making within a particular

market and whether it is efficient to do so. For example, providing it is cost efficient to do so, there may be a justification for regional representation in the water sectors given that the sector is compromised of regional monopolies.

6.21 There are a number of potential benefits from such regional structures³⁰:

- local capacity is available to deliver consumer awareness and education programmes;
- regional communications functions are effective in maintaining relationships with the regional media;
- links with Scottish Executive and Welsh Assembly;
- regional resources enable consumer bodies to maintain close links with suppliers where suppliers are regionally based; and
- regional committees in water and postal services can undertake important work in relation to specific local issues – for example the urban and rural network closure programme.

6.22 However, a regional structure also gives rise to some costs that would not otherwise arise. Within a total operating budget of £13m, the direct costs of energywatch's regional offices are £7.7m. Within Postwatch's overall budget of £10.3m, the direct costs of its regional offices are £2.5m³¹. There are also indirect costs associated with regional operations in terms of head office staff resource required to support them³². Therefore benefits and costs of regional delivery need to be examined carefully on an issue-by-issue basis.

6.23 There is some evidence that regional representation, for example through regional committees, can have benefits for the effectiveness of some sectoral consumer bodies. Regional committee members are likely to be able to bring to bear a breadth and depth of knowledge to local issues that is valuable to the development of policy at the national level. There is also evidence that regional input has been important in gathering information and in linking with local media, for example in Postwatch's *Urban Reinvention* programme.

6.24 A continued regional presence can therefore add value, in particular when the consumer experience has a regional dimension. Regional committee members are often well placed to provide local expertise and key media and partnership contacts. This is an important aspect of regional representation: the maintenance of strong links with devolved administrations and local opinion formers, as well as reflecting distinctly regional issues and nuances in the contribution to national strategy and policy development.

³⁰ Source: PWC Benchmarking Report, page 96

³¹ Excluding its call centre in Northern Ireland and its outsourced offices.

³² For example in providing back-office services such as finance, HR etc and in ensuring best practice in relation to complaint handling

Box 7: Postwatch work on Urban Reinvention - adding value at a regional level

Approximately 15 per cent of Postwatch's budget is allocated to the Network Directorate, which consists of 15 staff members, 13 of whom are deployed on the Urban Reinvention Programme. They monitor and respond to developments in the UK's network of 17,500 Post Offices.

While the Government provides a limited subsidy to the rural network in order to fulfil its commitment to 'no avoidable closures', it continues to work towards achieving its strategy for long term sustainable future growth. A key component of this strategy is its 'urban reinvention' which is undertaken in urban areas with an uneven spread of post offices: while some areas are marked by a disproportionate number of post offices to population, others have an insufficient number. The programme aims to correct this imbalance, with a reduction from 9,000 to 6,000 Post Offices by the end of 2004.

There is evidence that Postwatch's engagement in this programme has had significant beneficial impact, for example in identifying and addressing problems of implementation i.e. in accordance with the original programme objectives, and in successfully opposing some closures and asking for modifications. As a result of the large number of complaints from MPs and consumers alike, Post Office Ltd committed to immediately implement a revised urban reinvention procedure containing some key improvements.

6.25 There is little evidence, on the contrary, to support the delivery of complaint-handling at a regional level. Most consumers simply want an effective and efficient complaints-handling and dispute resolution service. Given that a high proportion of complaints, particularly in energy and post, are of a national nature, there could be benefits in consolidating of complaint-handling functions in one location. This would promote flexible use of resources in this resource-intensive function, as well as facilitating efficient and consistent treatment of similar types of complaints.

6.26 A network of small regional offices also presents challenges with regard to consistency of operations between offices; a high cost base due to lack of economies of scale; and also problems for co-ordination. Removal of the complaints-handling function would have resource implications for those offices. Where there is a demonstrable need to maintain some regional office presence, the question further arises of whether each individual organisation alone can efficiently provide a critical mass of staff to maintain an effective presence. Consolidation of regional offices into fewer but larger offices may bring benefits. For example, the support functions for regional committees do not need to be provided by dedicated regional offices. This can be seen from the experience of WaterVoice, which supports two regional committees from one office in Darlington³³. The Government has recently announced the future structure and organisation of the new Consumer Council for Water established in the Water Act 2003. The new structure includes a consolidation of the number of existing offices and committees of WaterVoice³⁴.

6.27 Alternatively, it may be desirable for those consumer bodies with an evident need for regional offices to co-locate or secure common functions in order to maximise synergies and economies of scale and scope.

³³ Source: PWC report on the new Consumer Council for Water

³⁴ Source: <http://www.defra.gov.uk/news/2004/040407c.htm>

6.28 There may also be opportunities for realising some of the benefits of a regional structure through alternative channels. For example, the advent of Consumer Direct will provide an important new service to consumers who seek advice, simplifying the “front end” of specialist services and providing a consistent service in all parts of England, Scotland, and Wales.

Recommendation 5.

Consumer bodies must ensure that regional representation continues to offer good value for money for consumers:

- **markets that do not have a clear regional structure do not require a regional network of offices for consumer representation;**
- **regional operations should focus on those market failures and aspects of the consumer experience that differ substantially between regions;**
- **complaints handling should be conducted centrally and not dispersed amongst regional offices;**
- **where regional committees are required, the consumer bodies should consider whether these committees require secretariat support from separate regional offices. Options for efficiency gains include:**
 - **consolidation of the number of offices with regional offices supporting more than one committee; and**
 - **consumer bodies pooling resources to provide secretariat support to regional committees.**

7. A regulatory framework that works well for all consumers

7.1 Consumer bodies operate alongside a diverse set of stakeholders, including customers, companies, regulators and Government. Although the interests of these stakeholders do not coincide on all issues, they all share a common objective: to ensure that consumers are getting a good deal. It is arguably only by achieving greater understanding and co-operation between these stakeholders that a step change in consumer satisfaction can be achieved.

7.2 It is therefore vital that consumer bodies engage strategically with all of those stakeholders that have the powers to effect change. There are three aspects to this:

- empowered consumers;
- strategic partnerships with Government and regulators; and
- constructive but challenging relationship with suppliers.

Empowered Consumers

7.3 Consumers need the skills, knowledge and information to be able to make effective choices in the market and stand up for their rights. This is better for both consumers and for companies. It is important that consumer bodies work together to achieve this goal, as there are significant synergies from joint working in this area.

7.4 The importance of consumer empowerment was recognised in the Consumer White Paper, which stated “well-informed consumers help markets to work effectively. Customers who can assert their needs clearly and make the best choices spur business to become more competitive and raise productivity. Consumers benefit from this through lower prices, increased choice and more innovative products.”

7.5 The benefits from consumer empowerment apply just as much to regulated markets as to other sectors of the economy. Sectoral consumer bodies therefore need to focus on empowering consumers by:

- providing consumers with the information and advice that will enable them to operate confidently in regulated markets and to address problems directly with companies;
- supporting vulnerable consumers; and
- where possible, promoting competition and switching between suppliers.

There are significant synergies in terms of consumer empowerment from working with other consumer bodies. This is therefore an area where sectoral consumer bodies could jointly provide campaigns or other empowerment functions.

7.6 Consumers need **access to information** along with the necessary skills and knowledge of their rights, to enable them to identify and tackle problems and complaints directly. WaterVoice has recently published a leaflet, in January 2004, which sets out what water consumers should expect from water companies. This information allows consumers to ensure they understand what levels of service their water companies should be delivering and therefore when to challenge if a water company is not meeting necessary standards.

7.7 Consumer Direct has been established to provide a high quality national service to meet this need, across all sectors. A key objective for Consumer Direct is to meet

unmet demand for information, and, by generating a high level of awareness, reach out to the 50% of all consumers who simply do not know where to look for advice and information.

Box 8: Consumer Direct

Consumer Direct is a new national telephone and on-line consumer information and advice service. Delivered in partnership with local authorities and other advice agencies, it will be the first point of call for consumers, delivering first tier advice on a range of consumer matters, including advice before shopping and information on consumer rights, and practical guidance on individual problems and how to solve them.

Consumer Direct will:

- increase consumers' access to quality assured advice and information;
- aim to give people the knowledge, tools and confidence to be able to resolve matters themselves;
- improve the quality and coverage of information for Trading Standards and other stakeholders ; and
- act as a gateway to other complementary services where further help is required or specialist advice is needed.

The service will begin operation in Scotland, Wales, Southwest England, and Yorkshire and the Humber in Summer 2004, with nationwide rollout completed by 2006-07.

Consumer Direct will be a key driver of consumer empowerment by increasing access to advice and information. Consumer bodies should use Consumer Direct as one channel by which to deliver empowerment initiatives, for example, by ensuring that Consumer Direct advisors have access to sector specific leaflets and information

7.8 Sectoral consumer bodies need to ensure consumers have access to information on how to complain in their sectors, and the information that they will need to support a complaint. To achieve this, consumer bodies need both to ensure the right information is available, and to ensure the widest possible access to that information. Companies will often readily agree that direct feedback from consumers is an important source of information that enables them to identify and address problems early. Good customer service should be a source of comparative advantage and consumer bodies should therefore encourage and support customers to engage with companies directly.

7.9 Empowering consumers is one area where there are significant synergies to be achieved from joint working between sectoral consumer bodies. Sectoral consumer bodies should actively look to exploit the reach of other generalist organisations tasked with empowering consumers – such as Consumer Direct or OFT.

7.10 With the aim of promoting wider access, the OFT has set up an area of their website for the adviser community. The website will provide factual material prepared by OFT and other consumer organisations on the main consumer rights/advice issues. The material will be available for use or adaptation by other groups tailoring it to match their target audiences. The website will allow better communication between different providers of information and advice, leading in principle to the sharing of best practice and the reduction of wasteful duplication. Areas in which joint working might pay dividends include educating consumers about

their rights and learning from experience of others in communicating with vulnerable groups.

- 7.11 **Increasing competition** in many of the utility sectors has provided significant benefits for many consumers. Consumers increasingly have a choice of suppliers, and an array of different tariffs from which to choose. Consumer bodies have an important role to play in providing the high quality information and advice needed if consumers are to take full advantage of competitive markets. Influential consumer councils and well-informed consumers can play a key part in competitive markets, in improving standards and lowering prices.
- 7.12 Consumer bodies should promote pro-active consumers and champion the benefits to consumers of switching suppliers. Consumer bodies can play an important role in providing consumers with the tools to enable them to make decisions on suppliers. For example, the energywatch website currently has a user-friendly web-based tool to enable consumers to find out the prices that different suppliers charge for different levels of energy usage in a particular area. Another example of good practice in this area is the Consumers Association, who currently operate a 'Switch with Which' campaign aimed at mobile phones, energy suppliers, mortgages and current accounts.
- 7.13 A particular challenge lies in **empowering vulnerable groups**. Vulnerable consumers may be less receptive to mainstream channels of advice and information provision. There may be lessons to be learnt for other sectors from the 'Reachout' programme, led by energywatch.

Recommendation 6.

Consumer bodies should work closely with other stakeholders to increase consumer empowerment, through:

- **campaigning with each other and with other organisations charged with empowering consumers, to raise consumer awareness of their rights and the benefits of being an active and demanding consumer. In particular by contributing to and using the OFT website for consumer advisor and using Consumer Direct as a delivery channel for information and advice.**
- **making widely available – through their websites, Consumer Direct and otherwise – information for customers on how to switch suppliers and how to complain about poor service.**
- **developing partnerships with bodies such as Age Concern and Citizen's Advice Bureaux, to reach out to vulnerable groups, such as the elderly and ethnic minorities.**

Strategic partnerships with regulators and Government

- 7.14 In energy and postal services, the consumer bodies are fully independent from the Regulator. This places consumer bodies in a strong position to be able to argue the case of the consumer with the regulator; raises the profile of consumers in regulatory decision-making and encourages more open debate on regulatory decision. However, to be fully effective, regulators, sponsoring government departments and consumer bodies need to work very closely together to achieve their common aims.
- 7.15 There will be occasions when these organisations have differences in perspective or objectives, and there will inevitably be instances of tension between these parties. In general, however, the interests of these three stakeholders should be broadly aligned and the relationship should be that of a mature and trusting strategic partnership.
- 7.16 A number of practical steps can be taken to strengthen and deepen these partnerships over and above the Memorandum of Understanding that already exist. A first step is to recognise the interdependence and shared interest of these three bodies. This can be achieved through, where appropriate, agreeing joint work programmes between consumer bodies, regulators and Government to address issues of shared concern. Regulators and consumer bodies may agree shared objectives and targets in relation to particular objectives – for example switching suppliers - in securing a better deal for consumers. Measures such as this would help ensure that stakeholders work together towards a joint goal.
- 7.17 A second step is to develop and demonstrate trust and mutual recognition. In some instances (such as water) the consumer body and the regulator have agreed a “no surprises” policy, where advance notice of announcements is given by each party to the other. This does not confer a right of veto, but facilitates informed debate on initiatives, and avoids the problems associated with diverting attention from the issue to an apparent disagreement between the regulator and the consumer body. An effective ‘no surprises’ policy between consumer bodies, regulators and Government is an essential factor in building trust.
- 7.18 Equally importantly is establishing the consumer bodies’ ‘right to be heard’. In Water, the Director General of Ofwat, attends the WaterVoice Council meetings to listen to views and answer questions. The minutes of these meetings are published. Alternatively, as part of the annual reporting process, consumer bodies could set out their comments and recommendations to the regulator based on policy issues arising during the forthcoming year. The regulator could then present a formal reply to these recommendations. This approach is followed by the FSA and FSA Consumer Panel.

Box 9: FSA Consumer Panel annual report - right to be heard

The Financial Services and Markets Act 2000 established that the regulator must consider representations made by the Consumer Panel and – if the regulator disagrees with a view expressed or proposal made in the representation, it must give the Panel a statement in writing of its reasons for disagreeing.

In practice, the Annual Report of the FSA Consumer Panel provides a commentary on the work of the FSA, and makes representations. The FSA then lists and responds to these representations in its own Annual Report, providing a valuable, transparent, means of formal dialogue to supplement the ongoing discussions between the bodies.

7.19 A third area for closer cooperation between regulators and consumer bodies is in Europe. While consumer bodies, regulators and Government may not always agree entirely on all aspects of a policy area, there will often be key areas of common ground. A joint approach to negotiating with EU partners might strengthen the position of each of the individual organisations and the overall impact of UK lobbying. Wherever possible consumer bodies should explore opportunities to engage with Government and regulators to developing joint negotiating positions on EU directives where appropriate.

Recommendation 7

Consumer bodies should deepen and strengthen their strategic partnerships with regulators and Government, through all or some of the following:

- **agreeing joint work programmes, where appropriate, between consumer bodies, regulators and Government to address issues of shared concern;**
- **committing to shared objectives and targets in relation to particular objectives in securing a better deal for consumers;**
- **operating an effective ‘no surprises’ policy between consumer bodies, regulators and Government;**
- **inviting the Regulator and or other key stakeholders to council meetings and publishing the minutes of that meeting;**
- **setting out through the annual reporting process their comments and recommendations to the regulator, with the expectation of receiving a formal reply to these recommendations; and**
- **wherever possible developing joint negotiating positions with other consumer bodies, regulators or Government where appropriate on EU directives.**

Constructive but challenging relationship with suppliers

7.20 Consumers’ experience of markets is dominated by their engagement with companies. In a competitive market, company performance is largely driven by consumer demands. Those companies not serving the needs of their customers will

lose out to alternative providers. In the absence of perfect competition, consumer bodies have an active role to play in engaging with companies, and in holding them to account. This can be particularly salient in the case where there is no or limited competition, for example water and postal services

7.21 Working with companies gives consumer bodies the opportunity to improve the consumer experience at source. Consumer bodies and companies should recognise that the responsibility for serving the needs of consumers lies firmly with the provider. However, in the absence of effective competition in the supply of essential services, these incentives are not always present or recognised by companies. The regulator is responsible for ensuring that companies have the right incentives to ensure consumers are getting a good deal and experience high quality service. The consumer body can play an important role in putting these incentives in place.

7.22 There are many different ways in which consumer bodies can engage with companies to enhance consumer experience and ultimately company performance. First, consumer bodies could negotiate minimum service standards with companies governing their interface with consumers. This could be carried out in conjunction with the regulator. Service standards could then be monitored and reviewed by the respective consumer bodies as part of a 'consumer audit'. The WaterVoice practice of auditing the individual complaint handling systems in each water company, and publishing the results, provides a firm discipline on the companies in the sector and provides a means of benchmarking best practice.

Box 10: WaterVoice engaging with Suppliers

WaterVoice regional committees currently audit the complaint-handling function of companies. The results are used by Ofwat in assessing company performance.

The WaterVoice committees visit the customer departments of the companies and look at what they are doing, inspect records and give views on whether they are handling complaints properly. That is something that the Regulator will then take into account as part of the qualitative assessment of how well the companies are performing their job in relation to their customers. WaterVoice also review companies debt management procedures and other areas of consumer service.

In addition, WaterVoice regional committees hold annual meetings with the boards of the relevant water companies, including non-executives. This provides a direct means of informing non-executives in particular, about the issues of concern to consumers.

7.23 Second, publishing comparative information on company performance is a powerful accountability mechanism. Energywatch and the new Consumer Council for Water have a statutory duty to publish comparative data on company performance and complaints received. Energywatch also publish comparative price tables on their website.

7.24 Lastly, consumer bodies can also engage at board level with companies to address systemic problems with customer service and to discuss developments in the marketplace - such as technological or legal developments - and their impact on consumers.

Recommendation 8.

Consumer bodies should engage strategically with companies to deliver better outcomes for consumers by:

- **where practicable, working with the relevant regulator and companies to agree a programme of audit of complaint and customer-service procedures in each company, with a view to spreading best practice;**
- **publishing comparative information on company performance; and**
- **engaging with companies at board level to address systemic problems with customer services and highlight upcoming issues.**

Consumer Representation in the EU

7.25 It is widely recognised that the consumer voice across the European Community is relatively weak, particularly compared to the UK. There is a need to strengthen consumer representation in some other Member States and the Commission. Consumer bodies have an important responsibility to represent consumer interests at the EU level and to ensure that the European Commission is informed of them. However, this can be resource intensive for consumer representatives in the UK.

7.26 The European Consumer Consultative Group (ECCG) is the Commission's main forum for engaging with consumer organisations. Functions of the ECCG include providing the Commission with advice, guidance, and opinions on issues affecting consumers and to inform the Commission about developments in consumer policy in Member States.

7.27 Other consumer organisations having a presence at EU level include the Bureau Européen des Unions des Consommateurs (BEUC) where the NCC and Consumers' Association are members, and the Association of European Consumers, where there is a UK member of the board from the Food Commission.

7.28 The Commission considers that consumer participation within Commission consultative bodies and working groups will help to ensure integration of consumer concerns in all EU policies. Consultative bodies have been set up in fields including transport, energy, and telecommunications.

7.29 There does seem to be considerable opportunity - and need – to present a coherent consumer view at the European level. In addition to the formal institutional arrangements, there is scope for making unofficial links and for lobbying. Building up personal links is critical to effective engagement in Europe, and there is scope for work at this level by both consumer bodies alone, and through joint initiatives with regulators and Government to secure successful outcomes for consumers.

Recommendation 9

- **Consumer bodies should seek full engagement at the EU level, whether alone or through joint action with other consumer bodies, regulators and Government.**

8. Longer-term issues

- 8.1 This project has taken an explicitly medium-term focus, building on the success of the existing sectoral consumer bodies and maximising the effectiveness of consumer representation going forward. Nonetheless, it is important that the consumer bodies look ahead to potential future market developments in determining their strategies and operations. The Government must also continue to assess whether the framework for consumer representation is responsive to consumer needs and continues to be efficient and effective. This section presents a long-term vision for the future of consumer representation, which is intended to form a starting point for discussion.
- 8.2 As this report has highlighted, consumer representation is fragmented, largely as a result of sector specific legislation. The scope of this study has enabled a thorough review of arrangements across sectors, thus benefiting from a cross-cutting perspective. As a result, the DTI/HM Treasury review has identified an alternative delivery mechanism for achieving the Governments objectives for consumer representation set out in the White Paper published as part of the Utilities Review. This scenario is based upon the synergies identified during the study between different representative bodies and also a consideration of the drivers of change over the medium to longer-term.
- 8.3 This longer-term scenario includes the establishment of a National Utilities Consumer Council (NUCC) to undertake consumer advocacy across a number of sectors. The NUCC would play a key role in consumer advocacy and scrutiny of Regulators, Government and companies. Under this model, Alternative Dispute Resolution (ADRs) bodies could provide an efficient and effective redress mechanism for consumers with unresolved complaints in regulated markets.
- 8.4 However, it is important to recognise that any introduction of ADRs points towards a consolidation of the number of existing consumer bodies. What must be avoided is an inefficient proliferation of institutions that could both increase the complexity for consumers and lead to the regulator being less informed about consumer issues than they should be.

Long-term scenario for consumer representation

- 8.5 There are a number of different drivers for change in the context of consumer representation in future years.
- First, there will be national roll-out of Consumer Direct by 2006-07. This will provide consumers with a national help-line providing consumers with information on their rights and practical advice on their problems.
 - Second, there may be a continuing movement toward multi-utility providers. In these cases, customer interface in relation to a number of services is with a single company such as Centrica or United Utilities.
 - Third, utility markets in particular share a common customer base.
- Each of these factors, together with the ongoing need to ensure that consumer representation is provided efficiently and effectively, means that there is a continuing and increasing requirement to exploit synergies for consumer representative bodies.
- 8.6 These drivers are important influences of the medium-term vision set out in this report and underpin its recommendations. However, there may be significant

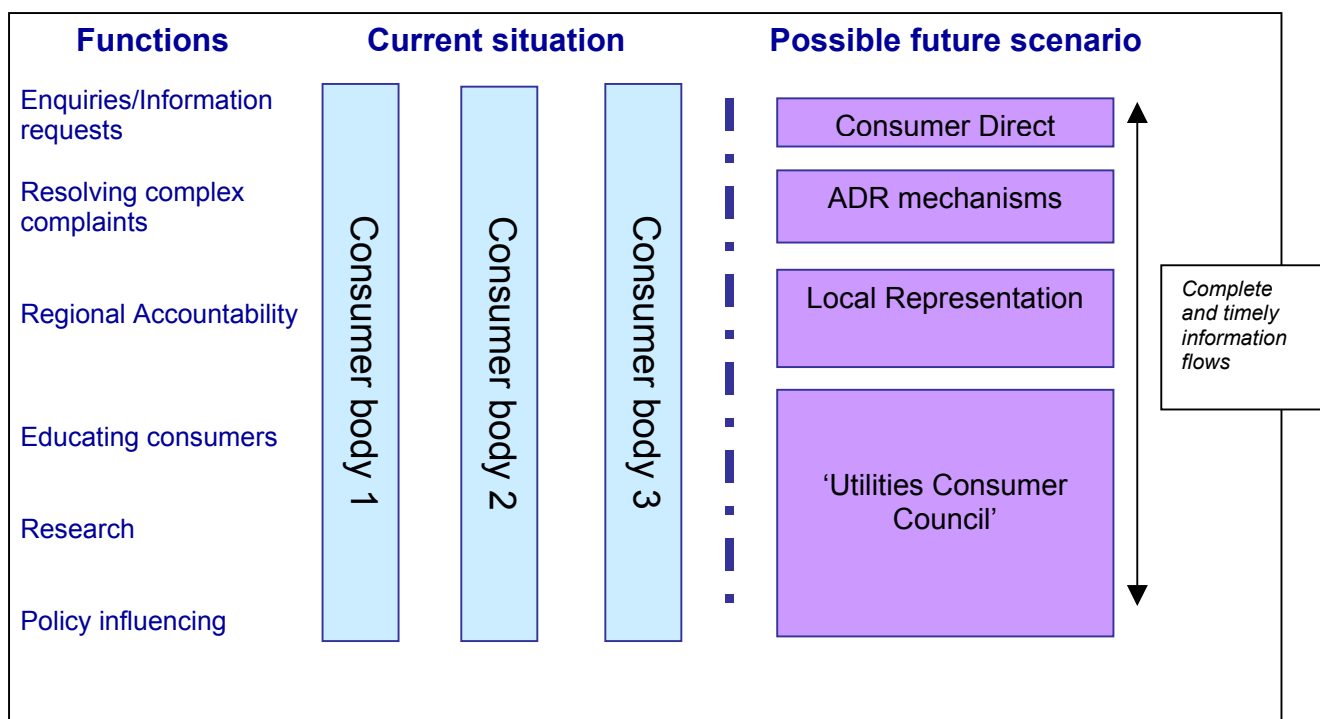
additional benefits from organising consumer representation functionally rather than by sector. This scenario would witness the establishment of a single consumer body responsible for consumer advocacy across a number of sectors. This is not a new concept. In 1997, Consumers Association recommended establishing a Public Utilities Consumer Council to cover water, electricity and gas. Another model which has been looked at during the review is illustrated in Figure 4.

8.7 This delivery model would promote:

- increased flexibility in responding to market changes over time;
- economies of scale and scope to be realised;
- one consumer advocacy body to represent consumers with regard to these essential services;
- a stronger voice by which to influence policy in the UK and EU;
- increased incentives on companies to resolve complaints at source.

8.8 However, this scenario also highlights features of current arrangements that are of value and would need to be incorporated into any alternative arrangements. These include maintaining sectoral expertise, perhaps through distinct teams that deal with sector specific policy issues; use of complaints information to inform strategic decision-making and close links between regional representation and central decision-making.

Figure 3: Possible future scenario for consumer representation in utility markets



- 8.9 This model would allow consumer representation to be strengthened by having one organisation that could draw on the experience of consumer representation across the spectrum of markets in areas, such as consumer empowerment, and could conduct cross-cutting research into consumer behaviour.
- 8.10 As Chapter 6 illustrated, some of the consumer bodies have a statutory duty to handle unresolved consumer complaints. This is an expensive and time-consuming function for these small organisations. Under the new model, it may not be necessary for the unitary organisation to be responsible for handling unresolved consumer complaints. Alternative dispute resolution (ADRs) arrangements can provide an alternative delivery mechanism for consumer redress. In particular, ADRs can ensure that the appropriate incentives are in place to provide companies with the appropriate incentives to resolve consumer complaints quickly and effectively. The introduction of ADR's however, should only accompany a consolidation of existing consumer bodies so as to avoid a proliferation of bodies with overlapping remits in regulated markets. Such a proliferation would not be in the consumer's interest, nor would it be efficient.
- 8.11 This new model is not a statement of Government policy, and this study has not undertaken a full policy assessment of this new approach. Nonetheless, there are strong drivers for change in the medium to long term. As a result, as part of a consultation on the Government's proposed Consumer Strategy, the Government will consult on this longer-term vision and the potential for ADRs. Any proposals which emerged from this process, including which sectors might be involved, would need to take account of the specific circumstances of each sector.

Progress can be made in the short-term

- 8.12 The above model of consumer representation is presented as an indicative scenario for the future, and not a firm recommendation for institutional change now. There are a number of reasons for this:
- Consumer Direct will not achieve national roll -out until 2006-07. It will be important that this organisation is a proven success before it takes on any additional responsibilities for regulated markets³⁵.
 - Handling complaints through Alternative Dispute Resolution mechanisms, such as independent Ombudsmen, would be a significant change to the current arrangements with implications for regulators, industry and consumers. Otelo has only recently been established and still has to be proven.
 - There has been significant organisational change for some of the consumer bodies in recent years, particularly in energy, post and water. It is important not to de-stabilise the system for consumer representation unnecessarily.
- 8.13 Moreover, a number of steps are beginning to be taken by the consumer bodies to deliver some of the benefits of joint working. The Government warmly welcomes the recent initiative by energywatch and postwatch to set up a consumer forum – the Consumer Action Network. This forum will help identify and act upon synergies and

³⁵ The first wave of Consumer Direct regions will – by end 2004 – have provided substantial validation of the basic operational model. However, in respect of the formal transfer of national functions – such as the handling of first tier enquiries and advice – the delay before national roll-out of the service may act as a constraint on a move towards a new operating model for the consumer bodies.

potential efficiency gains from joint activity. Its priorities at present focus on operational issues. The Government has a part to play in ensuring that the policy framework that supports these bodies does not hold back progress in this area. The Consumer Action Network is also a forum from which best practice can be shared and collective knowledge of consumers pooled. There may also be scope for the forum to be usefully used for policy issues. One could envisage sector specific consumer bodies developing and launching joint campaigns where appropriate, for example on consumer rights or debt issues.

Recommendation 10

Consumer bodies should continue to explore ways in which to exploit synergies from joint working.

- **The Consumer Action Network is an important vehicle for delivering this and should:**
 - **identify 2- 3 key initiatives to take forward over coming months that will deliver real benefits; and**
 - **concentrate on both operational issues and delivery of consumer representation. For example consumer empowerment and joint procurement of some common functions such as legal resource.**
- **Sectoral consumer bodies should review opportunities for savings through partnering with other organisations with a view to outsourcing certain 'back office' functions collaboratively, based on common process, in order to obtain benefits of scale.**
- **Evaluate scope for partnering with other organisations to provide key functions including if appropriate complaints handling and campaigning.**

Summary of recommendations

The following is a high-level summary of the main recommendations

- Consumer bodies should target resources where they will have maximum impact.
 - Consumer bodies and their spending teams should work together to develop meaningful measures of performance.
 - The super-complaint provisions of the Enterprise Act provide opportunities for consumer bodies and regulators. Postwatch and the new Consumer Council for Water should apply for super-complaint status. (Energywatch applied in February 2004).
 - Consumer bodies should work together to develop a new strategy for complaint handling on the following principles:
 - Companies should bear primary responsibility for handling complaints efficiently and effectively;
 - Consumer Direct will become the one-stop shop for all first tier consumer enquiries;
 - Complaints handling by consumer bodies should be further consolidated regionally (ie outside London and the South East) within each body.
 - Consumer bodies must ensure that regional representation continues to offer good value for money.
 - Consumer bodies should work closely with other stakeholders to increase consumer empowerment.
 - Consumer bodies should deepen and strengthen their strategic partnerships with regulators and Government.
 - Consumer bodies should engage strategically with companies to deliver better outcomes for consumers.
 - Consumer bodies should continue to explore ways in which to exploit synergies from joint working.
 - Consumer bodies should seek full engagement at the EU level, whether alone or through joint action with other consumer bodies; regulators; and Government.
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END