

EXECUTIVE SUMMARY

The Government confirms its intention to establish a new competition regime for payment systems. It intends to give the Office of Fair Trading (OFT) new powers aimed at promoting effective competition in payments systems for the benefit of consumers.

Whilst the OFT will deal with the competition issues associated with payment systems, the Bank of England will continue to have responsibility for the oversight of payment systems from a financial stability perspective, the Financial Services Authority will continue with its roles in prudential supervision of financial institutions and consumer protection, and the Financial Ombudsman Service will continue to deal with consumers' complaints.

New rules will govern participation in the provision of payment services in the UK, and will be designed to:

- require price transparency by firms in the provision of retail payment services;
- require firms to provide access on fair, reasonable and non-discriminatory terms;
- require firms to ensure wholesale charges are derived through a published methodology based on legitimate costs anticipating future cost reductions and efficiency improvements;
- place an obligation on firms to co-operate in the development of payment systems; and
- place restrictions on the governance and control of payment systems where there is a material effect on competition.

The OFT will have a power to propose modifications to the rules to reflect changing market circumstances. If there were significant objections to the rule modifications, the proposed rules would be referred to the reporting arm of the Competition Commission for investigation to see if they were in the public interest.

The OFT will also be able to:

- conduct competition investigations into the provision of payment services;
- investigate complaints about competition in payment services;
- collect information in relation to payment services;
- enforce rules, make determinations and impose financial penalties;
- publish information and advice;
- establish advisory bodies; and
- exchange information with other regulators and government bodies.

In carrying out these new functions, the OFT will be required to have regard to a number of regulatory principles aimed at:

- avoiding material adverse effects on financial stability;
- facilitating innovation and promoting efficiency; and
- ensuring its actions are consistent with the principle of proportionality.

In addition, the Government proposes to require the OFT to conduct cost benefit analyses on all major policy proposals in this area. It intends to require the OFT to publish guidance on its approach to the application of the rules and on how these rules would be enforced. The Government also proposes to require the OFT to give reasons for its decisions when exercising its statutory decision making powers.

The Government recognises the importance of balancing the OFT's powers by a strong and effective appeals process. The Government expects to introduce a similar appeals process to that under the Financial Services and Markets Act 2000 and the Competition Act 1998. Under such a process, the Competition Commission Appeals Tribunal would be able to confirm, amend, refer back or set aside any decision by the OFT which was the subject of the appeal.

The Government intends that the OFT's role in consumer protection in dealing with payment systems will be focussed on improving price transparency and in dealing with complaints which raise competition issues. The Government believes that a combination of tough powers to tackle the competition concerns, together with price transparency, should bring about effective competition and ensure a fair deal for all consumers.

The Government is keen to consult on all aspects of its proposals. Chapters Four and Five of the consultation document set out a number of specific questions on issues such as the:

- OFT's objectives, powers and functions in dealing with payment systems;
- appeals processes;
- roles of other authorities with an interest in payment systems;
- scope of the new regime; and
- proposed rules.

The deadline for responses to the document is 20 March 2001.