Minutes of the Office of Fair Trading Board Meeting

Tuesday 1 April 2003

Present:

OFT Board
John Vickers (Chair)
Penny Boys (Executive Director)
Lord Blackwell
Christine Farnish
Richard Whish
Rosalind Wright

OFT Senior Managers
Frances Barr (for Item 6)
Margaret Bloom (for Items 5 and 6)
Pat Edwards (for Items 1, 2 and 3)
David Fisher (for Items 7, 8, 9, 10, 11, 12 and 13)
Jonathan May (for Items 5 and 7)
Maureen Morter (for Item 10)
Simon Priddis (for Item 5)
Mike Ricketts (for Items 4, 5, 6 and 7)
John Ward (for Item 6)
Alan Williams (for Item 6)

Secretariat
Erik Wilson
Francesca Seymour

Item 1: Minutes from pre - Board meeting (14 March) (BP(03)2nd minutes)

The minutes were accepted as a true record.

The Board acknowledged the appointment of a Non-executive member to the Audit and pay Committees. Visits undertaken by Non-executive members to CCLB and CE were welcomed, and it was agreed that other visits should take place as soon as possible.

Item 2: Rules of Procedure (OFT(03)01)

The Secretary of State has confirmed that she is content with the rules and procedures as to conflicts of interest as drafted. She has made clear that any Non – Executive member taking up another appointment should notify the Chairman, who will alert DTI as necessary.

The rules of procedure were adopted and agreed by the Board and adopted.
Item 3: **Delegations (OFT(03)02)**

The Board was asked to note that its approval would only be sought for discretionary ex gratia payments above £5k. While querying whether a higher threshold would be more appropriate, it agreed to accept this, but to re-visit the issue in a year’s time.

The authorisations relating to Performance of Functions and Authentication of the Seal of the OFT were signed by the Board.

The Statutory Authorisation allowing staff to act on behalf of the OFT was signed by the Chairman.

Item 4: **Progress Report (OFT(03)03)**

*Safeway Bids*

With the Board’s agreement, the Chairman remained at the table in silence for this part of the discussion.

The decision to refer to the Competition Commission the Morrisons bid for Safeway had been difficult, but was right for both consumers and competition.

To highlight general points of process, two recent cases (Carlton/Granada and Centrica plc) were cited. The Centrica advice is available at: [www.oft.gov.uk/business/mergers/advice/clearances+and+referrals/centrica+plc.htm](http://www.oft.gov.uk/business/mergers/advice/clearances+and+referrals/centrica+plc.htm)

*Wiseman/Express Dairies*

Some Non-executive Board members will be attending a meeting on 8 April where this case will be discussed.

*PAC Hearing*

The Chairman has written to the PAC, giving the history on access to criminal records.

*Pharmacy Report*

The Government’s statement was more positive than much of the Press had reported, although it was not a ringing endorsement. The pharmacy report will be discussed further at the May Board meeting.
Enterprise Act 2002

Other competition and consumer provisions come into force on 20 June. The Chairman will be speaking Rosalind Wright about ‘no action’ letters, disqualification orders and investigative powers. Under section 204 of the Enterprise Act the OFT has the power to apply to the court for disqualification of company directors.

Dentistry

The Private Dentistry Report was well received.

Genzyme and Lladro

The Genzyme case resulted in a significant fine of £6.8m for exclusionary pricing behaviour. The investigation into price fixing by Lladro resulted in no fine being awarded. The OFT had accepted Lladro’s claim that the wording of a comfort letter issued in 2000 by the European Commission may have suggested that the agreement would not infringe the Competition Act.

Bogus Holiday Clubs

This campaign has been launched and has received substantial positive media coverage. Some twenty-five interviews have been undertaken by Esther Rantzen and OFT staff.

Recruitment

The recruitment for a new Director of CRE is underway, and the process to recruit a new Director of Cartel Investigations will commence shortly.

BHB

The Executive Director left the room for the duration of this discussion.

The BHB investigation concerns the Orders and Rules of Racing, where we are now at the stage of issuing a Rule 14 Notice. As BHB and the Jockey Club will be the only recipients of the Rule 14 Notice, a companion paper will be published to inform all interested parties.

Other issues

The Board felt that it was important to strengthen links with key journalists and particular papers, which we will continue to do.

Action: MR to compile press cuttings pack on supermarkets issue
Item 5: **Procedural issues for merger cases (OFT(03)04)**

The Board discussed procedural issues for handling merger cases under the new regime following implementation of the Enterprise Act (on 20 June) when all OFT merger decisions will be published. The emphasis was on an efficient process with effective checks and balances while respecting the rights of parties to mergers. The responses from the consultation on the future of the Mergers Panel were also discussed.

Item 6: **Competition Act case (OFT(03)05)**

The Board discussed a Competition Act case considering, in particular, the application of OFT Guidance on Financial Penalties.

Item 7: **Annual Plan (OFT(03)06)**

The stakeholder event will take place on 6 May at the Brewery, Chiswell Street, Barbican. It will commence at 1745 with presentations by staff and questions, followed by an informal reception. The invitations are to be sent out on 4 April. The Board agreed that selected members of the Press be invited to attend.

Target figures for increasing levels of awareness of rights and obligations under competition and consumer protection law in 03/04 were provided. The Board asked if it could see the questions that consumers and businesses had been asked to arrive at the figures. We currently hold no baseline data, but this might be available next month. This could be reflected in the final version of the paper, which will allow more time to analyse the data. There will be a presentation to the Board on key data from the tracking research at the 19 May meeting.

The consultation document will be released on 3 April, with comments to arrive by 16 May. A draft press notice is being prepared, which Non-executive members are invited to comment upon.

Item 8: **Financial Report (OFT(03)07)**

The Board noted the contents of this report.

Item 9: **Budget Allocations (OFT(03)08)**

The Board noted and agreed the method for approving budget transfers, and the way in which budgets are allocated. It also agreed a £1m transfer to SDA 2 to cover the increasing work on Codes of Practice.

As part of the Annual Plan consultation process, views are being sought on our proposed resource allocations. The allocation process for 04/05 commences in September.
Item 10: **OFT Pay Strategy (OFT(03)09)**

The Board discussed this paper which set out the pay strategy and the process for agreeing the annual pay settlement for OFT staff below the SCS.

Item 11: **Accommodation Strategy and Constraints (OFT(03)10)**

The Board were advised that the move to open plan was necessary if we were to handle the growth in numbers within Fleetbank House.

The Board endorsed an open plan policy for Fleetbank House. It also agreed that it would be sensible to require business cases for the creation of additional staff to specify how accommodation needs would be met.

Item 12: **Gifts and Hospitality (OFT(03)11)**

The Board agreed that the retail value of gifts to be registered, and retained, should be amended from £10 to £20. Non trivial hospitality was defined as anything outside the examples given for trivial hospitality. Board members and staff should ask themselves how it would look publicly if they accepted a gift or offer of hospitality. If any clarification was needed, Board members should contact the Board Secretary in the first instance. Staff should contact the Director, Resources and Services.

The Board endorsed the gifts and hospitality policy.

Item 13: **Health and Safety (OFT(03)12)**

The Board endorsed the policy, agreed that the Executive Director should be appointed Health and Safety Director and that they should receive an annual report on health and safety.

Item 14: **Any other business**

The Board wish to discuss the observations of the Advisory Panel at a later date. It was agreed to do this over dinner during the summer. It was also agreed not to hold a Board meeting during August.

**Action:** FS to arrange a suitable date

Item 15: **Private Board meeting for Non-executive members**

The Non-executive Board members declined the opportunity to have a private meeting at this time, but agreed to meet 15 minutes prior to the next meeting on 19 May.

Francesca Seymour
Board Secretary
3 April 2003
Minutes of the Office of Fair Trading Board Meeting

Monday 19 May 2003

Present:

OFT Board
John Vickers (Chair)
Penny Boys (Executive Director)
Allan Asher
Lord Blackwell
Christine Farnish
Richard Whish
Rosalind Wright

OFT Senior Managers
Caroline Banks (for Item 1, 2, and 9)
Margaret Bloom (for Items 4 and 5)
Louis Christofides (for Item 4)
Sue Cook (Item 9)
Pat Edwards (for Items 1 and 2)
Neil Feinson (for Item 5)
David Fisher (for Items 3 and 10)
Tim Gear (for Item 7)
Peter Lukacs (for Item 6)
Catherine Mason (for Item 8)
Jonathan May (for Items 6 and 7)
Chris Mayock (for Item 4)
Nicola Motley (for Item 6)
Hannah Priest (for Item 5)
Mike Ricketts (for Items 1, 2, 6, 7, 8, and 9)
Andrew Ross (for Item 10)
Marc Thomas (for Item 8)
Graham Winton (for Item 6)

Board Secretariat
Erik Wilson
Francesca Seymour

External Consultant
Jacquie Collins - Synovate (for Item 8)

Item 1: Minutes from Board meeting (1 April) (OFT(03)1st minutes)

The minutes were accepted as a true record.
The Chairman announced that the mergers event will take place on 21 May, although unfortunately this timing meant that no Non-executive members were available to participate.

**Item 2: Progress Report (OFT(03)15)**

In addition to the Progress Report paper, the Board was updated on the following issues:

*Meeting with Patricia Hewitt MP, Secretary of State for Trade and Industry*

The Board met Patricia Hewitt on 9 May as part of the Annual Plan consultation process. A presentation to OFT staff on the Annual Plan is being held on 4 July, to be followed by discussion on what the OFT needs to do to deliver the objectives set out in the plan.

*Review of the Consumer Credit Act*

OFT published its response to the DTI’s consultation on credit licensing on 8 May. A paper on CCA reforms will be presented to the Board in September.

*Other issues*

The meeting the Chairman had with Lord Whitty (DEFRA) had been both good and productive. The Executive Director had also met with Sir Donald Currie, who will be writing to OFT asking that we consider facilitating a developed code for farmers supplying produce to supermarkets.

**Item 3: Financial and performance report for 2002/03 (OFT(03)16)**

The Board was asked to note OFT’s financial performance during 02/03, and progress against our SDA targets. Budget holders have been asked to put proposals for new initiatives forward to the Board at the June meeting.

**Item 4: Review of cartel cases (OFT(03)17)**

The Board was provided with a review of cartel cases to date. It discussed the use of the leniency regime and how the investigation process worked, and noted the content of the paper.

**Item 5: Progress report on EC modernisation (OFT(03)18)**

The Board noted the progress on EC modernisation. The Board agreed that there needed to be as much seamlessness between the UK and EC regimes as possible. Progress on what we need to do is well in hand, and is reviewed on a fortnightly basis.
Item 6: **Possible market studies (OFT(03)19)**

The Board was asked to consider candidates for the next round of market studies. It agreed to proceed with one of the proposed short studies, asked for a further proposal to be more clearly defined at a future meeting, and gave its views on a number of other proposals put to it, expressing particular interest in a number of issues involving the public sector.

**Item 7: Pharmacy report (OFT(03)20)**

The pharmacy report was acknowledged as a good piece of work, notwithstanding the critical reaction from some pressure groups. It was now important to look at how we can improve links with Government, the devolved administrations and stakeholders for the future.

The Board made the point that it was not necessarily a bad thing to receive criticism from some quarters since it was unlikely that a substantive review would satisfy all stakeholders. While briefing to the Press had been well handled, the Board stressed that it is vital to engage with the devolved administrations and other interested parties to explain the analysis and conclusions. We need to be able to find a win/win solution in reporting on studies that provide both the competition analysis, and that are of high public interest.

**Item 8: Results from tracking research (OFT(03)21)**

A presentation on the research findings was made to the Board. The Board noted the findings, including that the targets set for 02/03 for improving business and consumer awareness had been achieved. It was suggested that certain groups be targeted to gain more qualitative information during the interim research periods. It was confirmed that the questions posed to both businesses and consumers can be altered to address specific issues.

The Board agreed to discuss proposals for future targets at the meeting on 28 May.

**Item 9: Draft consumer education policy (OFT(03)14)**

The Board had previously commented on an earlier draft of this paper. It was agreed that the present paper better reflected the reality of what the OFT could achieve. The point should be made at either paragraph 7 or 8 that the OFT is not a campaigning organisation, and in co-ordinating information between groups operating in related areas would need to avoid the impression that it was taking on a similar role, or necessarily endorsing their campaigns. It was also agreed that the high level group would need its own terms of reference to clarify this relationship.

The Board agreed with the proposals in the paper and to its wider circulation. It noted that providing consumers with information and material is not enough, and
that action to support consumer education should be supported by an effective system of measurement.

Item 10: **Results from liP assessment (OFT(03)22)**

Fuller feedback from the liP assessment team is due this week. There has been a vast improvement in commitment to people, particularly through the changes to the appraisal system and the appointment of dedicated training and liaison officers.

On receipt of the full report a detailed action plan will be drawn up to show the assessors what steps we intend to take to achieve full status. The Board confirmed that it is fully committed to liP and welcomed the progress made.

Item 11: **Any other business**

The Board was asked to forward any general comments on the running of Board meetings, etc. to the Board Secretary.

**Board Secretary**

28 May 2003
Minutes of the Extraordinary Office of Fair Trading Board Meeting

Wednesday 28 May 2003

Present:

OFT Board
Penny Boys (Executive Director)
Allan Asher
Lord Blackwell
Christine Farnish
Rosalind Wright

OFT Staff
Margaret Bloom
David Fisher
Jonathan May
Mike Ricketts
Vincent Smith
Christine Wade
Nigel Cates

Board Secretariat
Erik Wilson
Francesca Seymour

Apologies
John Vickers (Chairman)
Richard Whish

Nomination of Chair

In accordance with the Rules of Procedure, the Secretary proposed the Executive Director chair in the absence of the Chairman. The Board accepted this nomination.

Item 1: Responses to the OFT Annual Plan consultation (OFT(03)31)

Respondents welcomed the opportunity to comment on the Plan, but had tended to focus comments on the OFT as a whole, rather than on the Plan itself. There have been 45 responses overall. In general, respondents would like to see more detail, particularly in the areas of consumer and business education strategies, codes of practice, and the criteria and principles for enforcement action.

The largest number of comments was received on codes. Trade Associations and Consumer organisations would like to see both codes and consumer education more highly publicised. There was also wide support ranging from the CBI to the NCC for OFT to take business and consumer education forward and to concentrate more on measures to deter infringements, rather than relying on enforcement. General comments on the Plan included:
• inclusion of targets (which should be assessed in the Annual Report);
• a forward list of publications due to be released;
• greater detail on EC modernisation;
• more detail on our communication methods;
• greater emphasis on the Enforcement Concordat; and
• a more detailed breakdown of costs, to include staff levels.

The Board judged the responses as supportive of the proposed broad strategy. Most of the comments would be fairly easy to incorporate into the Plan. Responses will be published on the OFT website (unless the respondents indicated otherwise) and each respondent will receive a written response.

Item 2: Discussion on management objectives

The Board discussed the following four questions posed in the covering paper to OFT(03)31:

Should the proposed strategy itself be changed in any fundamental respect?

The Board agreed that there was no need to change the strategy, but some re-balancing may be needed to emphasise communications throughout the Plan. In the absence of a precise formula, it was also agreed that the use of a simple matrix to illustrate where enforcement emphasis lies should be explored.

Are there particular points e.g. drafting, emphasis or tone, that the Board wishes to see in the final Annual Plan?

The Board agreed that the Enforcement Concordat should be emphasised more strongly in the document, as should the OFT’s intentions to work with its partners. It did not see the need for an “OFT Code of Practice”, as suggested by the CBI and the BRC. Without making it too detailed, the Board agreed that the Plan would be improved by a revised introduction, with signposts to procedural guidance and links to the Enforcement Concordat.

What new management objectives should flow from our final plan?

The agreed management objectives will be appended to the final Plan. The Board agreed that it would prefer to use the term “deliverable” rather than “target”, and that we needed to be careful about attributing targets to areas of enforcement work. Paragraph 4.7 in the present draft should be deleted, leaving specific goals to the management objectives which should include the deliverables. Paragraph 4.4 should be expanded to include a reference to perceptions by stakeholders that the OFT was indeed performing to its declared values, e.g. of transparency and accountability. The objectives in paragraph 4.4 should be measured by tracking surveys.

The Board discussed how to illustrate priorities within the objectives. It was agreed that by allocating resources to particular management objectives, the Annual Plan set out the OFT’s broad priorities. The Annual Plan should also recognise that priorities were not solely determined by the Board. The Board
Minutes of the Office of Fair Trading Board Meeting

Monday 16 June 2003

Present:

OFT Board
John Vickers (Chairman)
Penny Boys (Executive Director)
Allan Asher
Lord Blackwell (not for Item 8)
Christine Farnish
Richard Whish
Rosalind Wright

OFT Staff
Caroline Banks (for Item 5)
Frances Barr (for Item 8)
Margaret Bloom (for Item 8)
Michelle Coco (for Item 8)
Sue Cook (for Item 5)
Justin Coombs (for Item 8)
Pat Edwards (for Items 1, 2 and 5)
David Fisher (for Items 3, 4, 5 and 9)
Graham Hewett (for Item 9)
Jonathan May (for Items 4, 5 and 7)
Nicola Motley (for Item 7)
Nic Newling (for Item 8)
Chris Portman (for Item 7)
Stephen Pukas (for Item 7)
Mike Ricketts (for Items 1, 2, 3, 4, 5 and 8)
Gary Roebuck (for Item 8)
Vincent Smith (for Item 5)
Christine Wade (for Item 5)
Graham Winton (for Item 7)

Board Secretariat
Erik Wilson
Francesca Seymour (Secretary)

Item 1: Minutes from Board meeting (19 May) (OFT(03)2nd minutes)

The minutes of 19 May, and those from the extraordinary meeting held on 28 May, were accepted as true records.
Item 2: Progress Report (OFT(03)32)

In addition to the Progress Report paper, the Board was updated on the following issues:

New DTI Minister

Melanie Johnson has moved to the Department of Health, Gerry Sutcliffe takes over as the Minister for Employment, Competition and Consumers.

Enterprise Act 2002

The Enterprise Act comes into full effect on 20 June. OFT has been publicising the changes the Act makes through interviews with the media and features in key business journals. New editions of A Guide to the Office of Fair Trading and Overview of the Enterprise Act are also being produced.

Other issues

The Board asked for more information on the DTI benchmarking study. The benchmarking study had collected best practice evidence on how consumers were treated in other countries. Those countries that came out best all operated a general duty to trade fairly. This, and the Minister’s meeting at OFT in December 2002, had contributed to DTI’s more positive approach to adopting a general duty in the UK.

The Chairman stated that considerable work had been undertaken for the International Competition Network (ICN) meeting in Mexico (our strand being mergers).

The calibre of applicants for the current vacancies has been generally high, and some of the Non-executive members have been involved in the recruitment processes. Recruitment at every level in the OFT is looking good at the moment.

The Board was given the background to the Colorvision case.

Item 3: Approval of the Annual Report and Accounts for 2002/03 (OFT(03)33)

The Board noted that the Annual Report covered 15 months, and the accounts 12 months. Subject to the satisfactory resolution of the points discussed, the Board approved the Annual Report and Accounts. The Report will be published in mid July.

Item 4: Approval of the Annual Plan 2003/04 (OFT(03)34)

The Board was provided with a copy of the latest draft of the Annual Plan. Following discussion on further textual changes, the Board approved the Annual Plan for publication.
Item 5: New initiatives to support the Annual Plan (OFT(03)35)

The Board discussed the proposals that had been submitted, and decided upon the following:

**Consumer Enforcement initiatives**

These were all approved, with the exception of a proposed research project, on which the Board asked for a more detailed project specification.

**MPI initiatives**

These were all approved, with the exception of the particular proposal for an outsourced contract to assist in following developments at EU level. The Board agreed that this area of work was important but that it could be more effective to undertake the work through other means.

**Communications initiatives**

The qualitative research proposal was approved. A paper on the additional proposals is to be submitted to the Board in October.

**IT funding**

On the advice of the Executive Director, the Board agreed to proceed with the proposals for additional IT funding.

Item 6: Annual Plan staff event

This will be chaired by the Chairman on 4 July. Non-executive members have been paired up with specific divisions, and will look at both critical risk and success factors to achieving particular management objectives.

Item 7: Proposal for a market study

The Board discussed a potential short market study. It agreed the study should proceed.

Item 8: Case study

The Board was presented with an update on an ongoing case. It noted the points made by the case team.

Item 9: Relocation exercise (OFT(03)38)

An update on the public sector relocation exercise was presented to the Board. It was agreed that Board-level responsibility fell to the Executive Director. The Board was asked for its thoughts on how this exercise should be approached. It agreed that there were strong arguments for OFT to remain in London, not only
to attract a professional staff base, but also to be close to the Competition
Commission and other regulatory bodies.

The Board felt that any analysis should be linked to our objectives, and clearly
set out the pros and cons of a move out of London. Details of OFT’s
presentation will be circulated to the Board by correspondence late August/early
September.

**Item 10: Roles of the Chairman and Executive Director**

A short paper listing the roles of the Chairman and Executive Director were
circulated to the Board. The Board confirmed that this reflected how it saw the
individual roles, with the Chairman leading the OFT and acting as the main
external spokesman, and the Executive Director leading the staff and being more
internal-facing. It was agreed to proceed on this basis.

**Item 11: Any other business**

The Board agreed to discuss general staffing issues and the final observations of
the Advisory Panel at its dinner on 30 July.

For the record, the Board conveyed its congratulations to Margaret Bloom on
being awarded her CBE.
Minutes of the Office of Fair Trading Board Meeting

Monday 21 July 2003

Present:

OFT Board
John Vickers (Chairman)
Penny Boys (Executive Director)
Allan Asher
Lord Blackwell
Christine Farnish
Richard Whish
Rosalind Wright

OFT Staff
Ian Blomfield (Item 7)
Keith Davis (Item 4)
Darryl Fernandez (Item 3)
Daniel Gordon (Item 4)
Matthew Johnson (Item 4)
Jonathan May (Item 4)
Chris Portman (Item 5)
Mike Ricketts (Items 2, 3, 4, 5, 6 and 7)
Vincent Smith (Item 5)
Marc Thomas (Item 4)
Christine Wade (Items 6 and 7)

Board Secretariat
Erik Wilson
Francesca Seymour (Secretary)

Item 1: Minutes from Board meeting (16 June) (OFT(03)3rd minutes)

The minutes of the 16 June were accepted as a true record.

Item 2: Progress Report (OFT(03)41)

In addition to the Progress Report paper, the Board was updated on the following issues:

Vance Miller

The first court judgment imprisoning a trader (Vance Miller of Craftsman Kitchens) for contempt of court for persisting with selling faulty goods following a “Stop Now” Order had been passed. It was noted that the original 9 months’
sentence was reduced by the court to 5 weeks because he “purged his contempt” and gave undertakings to his future conduct.

**Annual Plan Staff event**

Feedback from the day had been mainly positive; the Board agreed that the afternoon sessions had been the most important part of the day. The Chairman and Executive Director had joined individual Divisions for their respective sessions, which had generally been constructive. Divisions were now in the process of drafting contributions to the Business Plan which will be circulated internally. It was agreed that how Divisions saw the overall vision of the OFT would be discussed in greater depth at the Board dinner on 30 July.

**Meetings with Gerry Sutcliffe MP**

The Chairman and the Executive Director have both had meetings with Gerry Sutcliffe. He has inherited Melanie Johnson’s portfolio, with the addition of employment. His previous local authority experience had made him aware of the role of Trading Standards Departments, and he recognises their importance, particularly in protecting the vulnerable consumer.

**Relations with DTI**

Penny’s meeting with DTI had been constructive.

**Pharmacies**

The Government response to the pharmacies report has been published.

**EC Directive**

It was noted that this was more realistically to be adopted by 2005 or 2006, not the end of this year. The Board asked for a presentation on the background to the Directive and OFT’s position at its next meeting.

**SDA**

This should by agreed by the end of July. The SDA draws on the Annual Plan, putting the management objectives into SDA format, so that stakeholders can see that we are making best use of our resources. The draft final SDA will be circulated to the Board for comments within the next few days.

**Item 3:** **Quarterly performance and financial report (OFT(03)42)**

The Board congratulated the finance team on completing the accounts in both an accurate and timely fashion. OFT was the second department to submit its accounts, behind OFGEM.

The Board was asked to note that the quarterly report covered actual outturn for the two months ending 31 May, with the budget pro-rated up until 30 June. The Board asked if enough is being done to recruit staff with IT and financial
skills. It was acknowledged that there have been difficulties, but these are not unique to OFT. Ways of retaining and attracting staff (e.g. through allowances) will be further explored.

Item 4: **Market Study Report**

The Board was provided with an update on an ongoing market study.

Item 5: **Information Systems policy (OFT(03)48)**

The Board was asked to approve the IS strategy and associated projects for the next 12 months. During the next 12 months the strategy will be reviewed with a view to putting together a 3 year plan.

A major part of the strategy is the move to electronic working, including Electronic Records Management (ERM). OFT’s transition to this method of record keeping has been slow (due to other competing priorities) but we are looking at this being in place by 2005/06. The Board judged that this was essential to a coherent strategy. The review of legal resources may well assist in the scoping of the ERM project. It was agreed that the strategy statement at paragraph 3 needed to be re-visited and made stronger, including timescales and the need to obtain organisational “buy in”.

The Board agreed the category A and B projects listed in the paper, noting category C projects at this time. Additional projects over £100k will need subsequent Board approval.

The revised IS strategy paper will be discussed by the Board at the September meeting.

Item 6: **CRED: Key strategic questions (OFT(03)43)**

The Board was provided with a presentation on the work of CRED. It was asked for its views on the following areas:

**Aim**

It was agreed that the original CRED aim was needed to communicate its goals more widely than OFT staff. The wording was discussed, and it was agreed that the aim should make a strong statement, perhaps building upon the OFT’s goal of “making markets work well for consumers”.

**Structure**

CRED is currently organised across 3 areas: UK Enforcement, Consumer Credit and Co-Regulation. There are no plans to change this structure, but more cross-office project teams were seen as a way to enhance and build upon individual skills and talent within the Division. CRED is also working with MPI and Comms
on Consumer Education, and plans to make the CCLB team feel more included in the overall work of the Division.

Planning

The Board was asked if there was any new area of work that it would like CRED to focus on. Following discussion it was agreed that a way of developing policy support for CRED needed to be explored.

Focus

Enforcement was seen as fundamental to CRED’s work, but with prevention through compliance and consumer awareness seen also as the key focus areas.

Evaluation

It was agreed that evaluation was vital to measuring our success. The Board asked for a paper in September identifying what the top 5 or 10 consumer problems are, tested against clearly stated criteria. This exercise would need to be managed carefully, both internally and externally.

All the points made by the Board will be discussed at the CRED Directors away day on 1 August. The Board asked for feedback following the away day.

Item 7: PAC Report (with particular reference to consumer credit licensing) (OFT(03)44)

The Board felt that the PAC had been fair in terms of what it said. It discussed the report’s 3 summary conclusions.

Item 8: Any other business

No other business was discussed. Two papers circulated outside of the meeting (Business Continuity and Procurement Strategy) were cleared by the Board. The next formal meeting will take place on 15 September.
Minutes of the Office of Fair Trading Board Meeting

Monday 15 September 2003

Present:

OFT Board
John Vickers (Chairman)
Penny Boys (Executive Director)
Allan Asher
Lord Blackwell
Christine Farnish
Richard Whish (morning only)
Rosalind Wright

OFT Staff
Richard Cook (Item 7)
Ginevra Di Berardino (Item 5)
James Dresser (Item 8)
David Fisher (Items 1-3)
Jonathan May (Item 5)
Chris Portman (Item 6)
Mike Ricketts (Items 1–3 and 6)
Gary Roebuck (Item 5)
Ray Hall (Item 9)
Christine Wade (Items 7 - 10)
Graham Winton (Item 5)
Steven Wood (Item 8)

Board Secretariat
Erik Wilson

Item 1: Minutes from Board meeting (21 July) (OFT(03)4th minutes)

1. The minutes of the 16 June were accepted as a true record.

Item 2: Progress Report (OFT(03)54)

2. In addition to the Progress Report paper, the Board was updated on the following issues:

Meetings with Gerry Sutcliffe MP

3. Both John and Penny met with Gerry Sutcliffe on 11 September. He confirmed:

- DTI Consumer Credit Review White Paper should issue on 22 October with a view to legislation being considered by Parliament in the 04/05 Session.
• HM Treasury have bids for 3 Bills in the 04/05 Parliamentary Session one of which is to cover bank payment systems. We will not know if this has been successful until November 03.

**Replica Kit Case**

4. The parties have until 1 October to lodge an appeal. The media coverage following the decision was generally supportive.

**British Horseracing Board**

5. Penny Boys left the room for this item. The Board noted that the parties’ representations are about to be received. We have not responded to the extensive press coverage.

**Store cards**

6. The Board noted that a team has been established to do a short 3/4 month study of store cards.

**Carlton and Granada merger case**

7. The Board noted the conclusion in this case. They were advised of the final paragraph of the draft advice to the Secretary of State for DTI.

**Item 3: The OFT’s Service Delivery Agreement with HM Treasury (OFT03)63**

8. The Board formally agreed the 2nd revised text of the SDAs, with the addition of a specific reference to the OFT’s diversity goal.

**Item 4: Race Equality Scheme (OFT(03)55)**

9. The Board noted that the draft scheme had been widely consulted upon. The scheme includes detailed divisional race equality plans together with other supporting evidence. The divisional plans were welcomed by the Board. The Board congratulated the team on the scheme which they fully endorsed.

10. The Board approve the scheme and the divisional plans.

**Item 5: FSMA Review – impact on competition (OFT(03)56)**

11. The Board notes the following declared interests:

   - Christine Farnish CEO of National Association of Pension Funds and former Director at the FSA.

12. The Board agreed that the OFT should assist the HM Treasury review of the FSMA. The OFT’s approach should be to identify and focus on those areas where the FSMA is likely to have had a significant impact on competition; it was not intended to conduct a complete review of the entire FSMA nor a review of the Financial Services Authority or its performance.
13. The Board would like to see the details/scope of the project to be tendered.

**Item 6: Information Systems Strategy (OFT(03)49)**

14. The Board was asked to approve the revised information systems strategy. On 21 July the Board had agreed that Electronic records Management (ERM) was essential to a coherent strategy. Paragraph 3 had been strengthened to reflect the views of the Board by including timescales and organisational “buy-in”.

15. The Board agreed that the text needs to include a “vision” of where the OFT expected to be in a clearly defined period. To this end paragraph 6 should be brought forward in the text and inserted before paragraph 4 and a clear timescale included. The revised strategy should then be circulated to the Board for clearance outside a formal Board meeting and would then be taken forward by OMG.

**Item 7: Presentation on Unfair Commercial Practices (OFT(03)57)**

16. The Board noted that the European Commission has proposed a directive to harmonise the law on unfair commercial practices across all member states. The objective is to deliver a high level of consumer protection and enable the functioning of the internal market. The directive is scheduled to be adopted in 2005 with implementation by 2007.

17. The Board noted the effect of the proposed draft Directive will apply to all business sectors and that EU-based rules will have precedence. The Board noted that there are more questions than answers at this point in time. The OFT will continue to press hard for the necessary changes to the draft Directive. The Board would welcome a written update by the end of the year.

**Item 8: CRED Case (OFT(03)60)**

18. The Board noted progress made to date on an ongoing CRE case.

**Item 9: Progress on Consumer Credit Act reforms (OFT(03)58)**

19. The DTI published its first White Paper on Consumer Strategy in 1999. The DTI will publish their White Paper on the Consumer Credit in October 2003. Consultation exercises have taken place in 5 key areas of reform so far (licensing regime, extortionate credit, financial limits and exemption, early settlement and on-line agreements) and the result are being analysed. On advertising and APRs and the form and content of agreement, the DTI will consult on the new draft regulations shortly with the aim of these becoming law in October 2004.

20. Fundamental changes to the CCA will are being deferred pending a new EC Consumer Credit Directive. The Commission proposal published in September 2002 has made very slow progress but they are aiming for adoption in 2004.
Getting the reforms right

21. CRED has established a Bill Team who will engage with DTI to ensure the delivery of reforms the OFT requires and will also manage the implementation of the new legislation.

Preparing for the new regime

22. Preparation of guidance for the operation of the new regime including a fitness test will be developed for issue in parallel with the development and implementation of the changes to the legislation.

Relations with FSA

23. CRED continue to develop effective working relationships with the FSA to manage the interface issues between the CCA and FSMA. The Board noted the importance on ensuring that there was no unnecessary duplication or gap in the regulation.

CCLB IT Replacement

24. Tenders have been received for the risk assessment for the licensing system. This will lead to the development of the scope for the replacement system which will encompass the changes proposed by the DTI (although the final decision on these may have to wait until it is clear that legislative change takes place). There will be implications for the fees to be charged.

Resources/TSD

25. The level of resources would be considered when the potential effects of the new regime have been clearly identified in the draft Bill. The Board noted the progress made to date and asked to receive a written update in January 2004.

Item 10: Proposed CRE project (OFT(03)59)

26. The Board approved a proposed CRE project.

Item 11: Any other business

27. No other business was discussed. Two papers circulated outside of the meeting were noted by the Board. The next formal meeting will take place on Monday 20 October.

Board Secretariat
16 September 2003
Minutes of the Office of Fair Trading Board Meeting

Monday 20 October 2003

Present:

OFT Board
John Vickers (Chairman)
Penny Boys (Executive Director)
Allan Asher (Items 1-5)
Lord Blackwell
Christine Farnish (Items 1 – 7)
Richard Whish
Rosalind Wright

OFT Staff
Frances Barr (Item 5)
Simon Brindley (Item 6)
Robert Cassell (Item 5)
Sue Cook (Item 7)
Justin Coombs (Item 5)
Tim Deasy (Item 5)
Dagmar Droogsma (Item 7)
Pat Edwards (Items 1, 2, 3 and 4)
Darryl Fernandez (Items 3 and 4)
David Fisher (Items 3, 4 and 7)
Daniel Gordon (Item 6)
Shagufta Hassan (Item 8)
Jonathan May (Items 3, 4 and 6)
Chris Mayock (Items 3 and 4)
Hannah Priest (Item 5)
David Pryke (Item 6)
Mike Ricketts (Items 1, 2, 3, 4, 5, 6 and 7)
Christine Wade (Items 3, 4 and 7)
Alan Williams (Item 6)

External consultants
Michael Bromwich (Item 5)
Gaby Joyner (Item 8)
Clare Reggiori (Item 8)

Board Secretariat
Francesca Seymour (Secretary)
The minutes of the 15 September were accepted as a true record. It was agreed that only the first sentence of Item 2, paragraph 15 should be included in the published version of the minutes.

Item 2: **Progress Report (OFT(03)61)**

In addition to the Progress Report paper, the Board was updated on the following issues:

**Relations with HM Treasury**

John and Penny will be meeting officials from the Treasury and DTI on 21 October. A meeting with the Chancellor of the Exchequer is also scheduled to take place on 11 November. John confirmed that he will be writing to Patricia Hewitt in the next few days regarding the verticals inclusion.

**Lords Constitutional Select Committee**

Preparatory work is underway for OFT’s appearance on 5 November.

**Treasury Select Committee**

A lot of preparatory work is underway for John’s appearance before the Committee on 4 November.

**Carlton/Granada**

The Board acknowledged that excellent work had been done in getting the draft undertakings ready, and it was noted that the parties had been impressed by OFT’s speed and efficiency.

The suggestion of a wider review will be discussed with Ofcom by the end of the year. The Board noted that a Memorandum of Understanding between OFT and Ofcom is in preparation.

**Ivax**

Penny announced that OFT were today (20 October) publishing undertakings in lieu of a remedy in respect of the merger between Ivax and 3M, drug companies engaged in the supply of subutamol, which is used by asthma sufferers.

**ICPEN**

It was announced that Christine Wade has been appointed president of ICPEN for 2004-05. This was welcomed by the Board.
Response to Department for Cultural Affairs on QCs

The Non-executive Board members would like to have seen a copy of our response to DCA. Penny explained that the document re-stated views that the OFT had already put on record. Nevertheless, the point was noted.

Independent schools

Plans for a discussion will be arranged as soon as possible.

Item 3: Quarterly performance and financial report (OFT(03)62)

The Board was asked to note the quarterly return covering for the period ending 30 September 2003. Consideration could be given to greater use of external consultants to support MPI, and out-sourcing specific tasks.

Item 4: Annual Plan and resource allocation (OFT(03)66)

The Board agreed the proposed timetable for producing the next Annual Plan, and to an additional external stakeholder event in January 2004. It discussed content for the draft Annual Plan (with specific focus on objectives and deliverables) which will come to the Board in November, along with proposed figures for resource allocation.

Item 5: CE5 case (OFT(03)67)

The Board was asked to consider the way forward in this case.

Item 6: Car warranties (OFT(03)68)

The Board was presented with the findings of the short market study that looked at the servicing ties in warranties provided with new cars.

Item 7: Approved Codes scheme and marketing strategy (OFT(03)69)

The Board was provided with an update on the Codes scheme to date. It welcomed the work that had been undertaken thus far.

The Consumer Codes Approval Scheme will benefit the consumer by offering a means of independent redress. Risks (such as complaints) will of course need to be managed. A licensing system and trademark registration is underway to protect the use of the OFT logo.

The team recognise the need to work horizontally across OFT and hold regular meetings with MPI, CE and other colleagues in CRED.
The Board approved the promotional work to support the Codes Scheme at Annexe A to the paper.

Item 8: **Update on the legal review (OFT(03)70)**

The Board was presented with the emerging findings of the review of OFT’s legal resources.

Item 9: **November staff event (OFT(03)71)**

The Board noted the contents of the staff event paper, which will take place on 24 November at the Honourable Artillery Company.

Item 10: **Any other business**

No other business was discussed. The next formal meeting will take place on 17 November.

**Board Secretariat**
**21 October 2003**
Minutes of the Office of Fair Trading Board Meeting

Monday 17 November 2003

Present:

OFT Board
John Vickers (Chairman)
Penny Boys (Executive Director)
Allan Asher (Items 1 – 9)
Lord Blackwell
Christine Farnish (Items 5 - 11)
Richard Whish
Rosalind Wright (Items 6 - 11)

OFT Staff
Frances Barr (Item 3)
Paul Bland (Item 7)
Robert Cassell (Item 3)
Justin Coombs (Item 3)
Tim Deasy (Item 3)
Pat Edwards (Items 1, 2, 4 and 9)
Darryl Fernandez (Item 4)
David Fisher (Items 4, 5 and 9)
Antoinette Graves (Item 8)
Ray Hall (Item 8)
Gover James (Item 6)
Sue Jones (Item 5)
Jonathan May (Items 6, 8 and 9)
Mike Ricketts (Items 1, 2, 4, 6, 7, 8 and 9)
Christine Wade (Items 1, 2, 4 and 9)
Graham Winton (Item 8)

External consultants
Gaby Joyner (Item 9)
Clare Reggiori (Item 9)

Board Secretariat
Erik Wilson
Francesca Seymour (Secretary)
Item 1: Minutes from Board meeting (20 October) (OFT(03)6th minutes)

The minutes of the 20 October were accepted as a true record, subject to two drafting points.

Item 2: Progress Report (OFT(03)73)

In addition to the Progress Report paper, the Board was updated on the following issues:

**Consumer Strategy Group**

Penny announced that Lucy Adams (currently a contractor working in Communications) has been appointed to assist Sue Cook on the work of the Consumer Strategy Group.

**Super complaints**

Lord Blackwell and Allan Asher attended the super complaints event on 13 November.

**Meeting with HM Treasury**

The meeting with Ed Balls went well, with the Chancellor joining for the last 30 minutes. John and Derek Morris will be invited to the Economic Affairs Sub Committee to highlight the importance of competition across Government.

**Competition Commission**

The Competition Commission has written to OFT taking issue on various matters, e.g. the scope of terms of reference for merger referrals, and the possibility of the CC being designated as a national competition authority capable of applying EC competition law. It was thought that these issues will resolve themselves in the fullness of time.

**Consumer Credit Enforcement**

The debt campaign will be launched on 19 November: this is aimed at consumers with debt problems, and suggests ways in which they can help themselves. On 2 December we will launch a campaign against lottery scams, prompted by the Canadian experience. The next roadshow will be held in Wrexham on 3 and 4 December, which Penny will be attending.

John will be giving the Royal Economic Society lecture on 2 December (Edinburgh) and 4 December (London).

**Safeway undertakings**

The DTI issue regarding the CC’s remedy has not yet been resolved.
Item 3:  CE5 case update

The case team summarised the highlights of this case for the Board.

Item 4:  Draft Annual Plan (OFT(03)74)

**Annual Plan**

The Board was asked to submit any changes to the consultation draft prior to the meeting. Revised pages reflecting changes submitted by the Board were circulated at the table.

**Resource Allocation**

The Board noted that the final decisions for the 2004/05 resource allocations would be taken in March.

The Board remitted to the Executive Director and OMG the task of assessing:

- how to make better use of existing posts
- how many additional posts can be afforded next year and beyond
- what additional non-recurrent expenditure can be afforded
- to draw up recommendations to the Board for additional spending
- to assess and recommend to the Board OFT’s approach to SR04

In addition, any proposals to the Board on new deliverables must include resource implications.

The Board noted and agreed the above points.

Item 5:  Risk management (OFT(03)75)

The Board was asked to approve OFT’s approach to risk management, and note the importance Government places on this aspect of governance. Progress has been made, but further work is needed.

The Board concluded that it needed to be clear about the ways in which it maintained an overview of OFT’s activities, how it receives information and how it holds accountable the Executive and senior managers. It was agreed that 'corporate governance' needs to be reflected as a separate theme, which would focus on how the Board works with the Executive and staff, the flow of information, how meetings are chaired and succession planning. The CPMS guidance *Maximising Board Effectiveness – A Toolkit for Departments and Agencies* was cited as a good point of reference. It was agreed to also include
‘quality control’ under ‘business planning’. Concern about how OFT maintains and manages its reputation was raised but it was agreed that if other risks were managed effectively, the OFT would enjoy a good reputation.

The Board was asked to challenge proactively the information provided in the quarterly financial and management reports in the future. The first risk management workshop will be held on 27 November.

**Item 6: Case Study (OFT(03)76)**

The Board discussed an ongoing case study.

**Item 7: Market Study (OFT(03)77)**

The Board discussed a market study nearing completion, and the likely recommendations.

**Item 8: Market Study (OFT(03)78)**

The Board was asked to note the progress of an ongoing market study thus far.

**Item 9: Legal Review (OFT(03)79)**

John explained that the Board would not take a decision on the structural recommendations until the December meeting. Now that the final report was complete, it was agreed that staff consultation should commence as soon as possible, and that the findings of the Ward/Bethell review be implemented as far as possible. The Board discussed the 8 principal recommendations of the Review, which were endorsed, and 3 structural options which will be the subject of further consultation.

It was agreed that the Executive Director and Divisional Directors would now carry the implementation of the review forward.

**Item 10: Any other business**

The arrangements for the staff event on 24 November were discussed. There will be a pre-brief prior to the event at 09.40 at the venue. Board members asked that individual Directorates’ presentations could be e-mailed to them as soon as possible.

No other business was discussed. The next formal meeting will take place on 15 December.

**Board Secretariat**

18 November 2003
Minutes of the Office of Fair Trading Board Meeting

Monday 15 December 2003

Present:

OFT Board
John Vickers (Chairman)
Penny Boys (Executive Director)
Allan Asher
Lord Blackwell
Christine Farnish
Richard Whish
Rosalind Wright

OFT Staff
Frances Barr (Item 3)
Simon Brindley (Item 5)
Pat Edwards (Items 1, 2, 3 and 6)
David Fisher (Items 1 and 6)
Christopher Hutton (Item 3)
Gover James (Item 5)
Joseph Lowe (Item 4)
Jonathan May (Items 6, 8 and 9)
Becket McGrath (Item 2)
Simon Priddis (Item 3)
Mike Ricketts (Items 1 – 6, 8)
Deborah Sall (Item 5)
Vincent Smith (Items 2, 3 and 6)
Steven Wood (Items 5 and 6)

Board Secretariat
Erik Wilson
Francesca Seymour (Secretary)

Item 1: Minutes from Board meeting (17 November) (OFT(03)7th minutes)

The following amendment was made to Item 2 (Progress Report) of the previous minutes:

Super complaints

Last sentence should read: ‘….door step consumer credit….’

Other than this point the minutes were accepted as a true record.
Item 2: Progress Report (OFT(03)81)

In addition to the Progress Report paper, the Board was updated on the following issues:

**SR 04**

Following a preliminary meeting with HM Treasury on 12 December, we have two budgetary options to consider for SR 2004 (effectively for financial years 06/07 and 07/08). The first option is to roll forward our 05/06 budget, technically ‘opting out’ of the spending review process. Alternatively, we could opt in to the process and put forward a business case for additional funding. It was likely that the latter option was likely to be recommended to the Board, to off-set the estimated additional costs (estimated at this stage to be some £5 – 6m) that would arise from the consumer credit reforms.

With regard to the underspend, it was explained that OFT’s administrative costs are increasing each year, and that the current underspend is likely to have ceased by next year. We are likely to apply for EYF of around £4m in 04/05.

The Board will decide what approach to take in January.

**Paysys**

A paper on where we are with the Paysys work will be put to the Board in January or February.

**LSE issue**

The Board asked that it be recorded the handling of the LSE Issuer’s fees case was a good example of OFT working at its best.

**Sunday Times piece – 14 December**

John has written to the Permanent Secretary of HM Treasury in light of the piece in Sunday Times. The Board was provided with both a copy of his letter and the article at the table.

**Horse Racing**

Penny left the room during this discussion.

The Board was presented with a factual update on the ongoing horseracing cases: BHB/Jockey Club and At the Races. Rule 14 notices in respect of both cases were issued in April, and the team is now considering the next steps.

The Board asked to be kept informed of progress at appropriate times, and that the economic importance of the racing industry is considered when applying the law in these cases.
**Item 3: Implications of the CAT judgement in IBA v OFT (OFT(03)83)**

The Board noted the implications of CAT’s 3 December judgment in IBA v OFT. Assuming that permission to appeal is granted, the appeal is likely to be heard towards the end of January; the judgment could be expected within weeks of the appeal.

It was agreed the Board would be kept informed of developments as they occurred.

**Item 4: Update on proposed market studies (OFT(03)82)**

The Board was asked to note likely contenders for market study starts and to approve a proposal to undertake a new market study. It was advised that the consultancy contract looking at market studies would be awarded in the New Year.

All areas proposed for new studies were approved by the Board.

**Item 5: Draft Store Cards Report (OFT(03)84)**

The Board was advised that the final report will be published in the New Year. It was noted that the Treasury Select Committee will be publishing its interim report on 18 December.

**Item 6: Legal Review (OFT(03)85)**

John thanked everyone involved in the review for all their hard work.

It was agreed by all that significant changes in working practices were desirable to make best use of OFT’s legal resources. However, the Senior Management Team agreed unanimously that it would be wrong to go for structural change. It supported the recommendations Penny had made in her paper, following her consultations with staff.

The Board endorsed both the recommendations in Penny’s paper, including additional points discussed on dual reporting, scrutiny of cases and recruitment and promotion. It agreed to undertake a review of progress in December 2004. Divisional Directors will need to monitor progress in their individual areas; Penny will keep the Board informed through her monthly Progress Reports.

It was agreed that staff should be informed of the conclusions of the review as soon as possible. A working group will be established to implement the recommendations.

**Item 7: Private Board Discussion**

The Board discussed succession planning.
Item 8: Any other business

The Board was asked if those attending the external stakeholder event on 14 January would be happy to lead certain elements of the discussion. The Board confirmed that it was happy to participate in this way. It was noted that a similar event will take place in Scotland on 15 January.