Positive Impact 10/11

Consumer benefits from the OFT's work

July 2011

OFT1354
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1 EXECUTIVE SUMMARY

Introduction

1.1 As part of CSR 07, the OFT agreed a performance target with HM Treasury (HMT) of delivering direct financial benefits to consumers of at least five times its cost to the taxpayer (referred to as the 5:1 target).\(^1\) This document presents the estimates of impact of OFT’s work over the previous three financial years (2008/09 to 2010/11).

1.2 We estimate that the OFT has saved consumers at least £326m per year on average over the period April 2008 to March 2011. Table 1.1 compares the estimated consumer savings to the average annual OFT spend of £48m\(^2\) over the same period, giving us a benefit to cost ratio of around 7:1, putting us ahead of the 5:1 target.

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\(^1\) Note that this is the last year where the CSR07 (5:1) target applies. However, under CSR10, the OFT is committed to meeting a set of impact indicators including publishing annually estimates of direct consumer savings from its activities and benefit to cost ratio. We will therefore continue to publish annual estimates of benefits and costs in subsequent Positive Impact notes. For more details on CSR10 performance indicators, please refer to the OFT Business Plan 2011-15 available on the OFT website. www.oft.gov.uk/about-the-oft/oft-structure/accountability/business-plan.

\(^2\) This is total OFT costs (actual spend) minus costs of Consumer Direct, Anti Money Laundering and Consumer Credit Licensing. We use a three-year moving average for costs to make it consistent with the way in which we estimate benefits.
Table 1.1: Estimated consumer savings and OFT costs for 2008-11

<table>
<thead>
<tr>
<th></th>
<th>Estimated average annual consumer savings 2008-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competition enforcement</td>
<td>£83m</td>
</tr>
<tr>
<td>Merger control</td>
<td>£90m</td>
</tr>
<tr>
<td>Market studies, reviews of orders and undertaking, and market investigation references</td>
<td>£117m</td>
</tr>
<tr>
<td>Consumer protection enforcement</td>
<td>£36m</td>
</tr>
<tr>
<td><strong>Total benefits</strong></td>
<td><strong>£326m</strong></td>
</tr>
<tr>
<td><strong>Total OFT costs (averaged over 2008-11)</strong></td>
<td><strong>£48m</strong></td>
</tr>
<tr>
<td>Partial OFT costs (averaged over 2008-11)</td>
<td>£34m(^4)</td>
</tr>
<tr>
<td>Benefit/Total OFT costs</td>
<td>7</td>
</tr>
<tr>
<td>Benefit/Partial costs</td>
<td>10</td>
</tr>
</tbody>
</table>

\(^3\) These estimates are based on conservative assumptions and reflect the direct financial benefits to consumers of OFT work on competition enforcement, merger control, markets work, and consumer protection enforcement. They do not include the benefits arising from the deterrent effect of OFT work in the above areas or those arising from (wider) benefits to competition (including increased consumer confidence, innovation or productivity gains). However, a more detailed analysis in Chapter 2 of the report allows for consideration of the potential deterrent effect of our work on mergers and competition enforcement.

\(^4\) This represents costs related to or attributable to the four areas for which we provide an estimate of benefits. As such, it includes direct salary costs of OFT staff contributing to these four areas, other costs such as external expert advice and research costs directly attributable to these activities, and a share of overhead and management costs in proportion to employee headcount. We include all costs to the teams where the work directly and exclusively relates to the four activities. We assign a share of the cost of support teams (such as Communications, economists and lawyers who advise on several OFT work streams) to the four relevant areas. The remaining costs are apportioned on a pro-rata basis, similar to the overhead costs.
Overview of our methodology

1.3 Below we briefly describe our overall approach to impact estimation. For a detailed explanation of our methodologies, please see 'A guide to OFT’s Impact Estimation methods' available on the OFT website.5

1.4 The OFT’s goal is to 'make markets work well for consumers' and our impact target focuses on the direct financial benefits to consumers. The independent review of our methods carried out by Professor Stephen Davies in January 2010 confirms that this is an appropriate measure as any alternative total welfare standard would require dynamic analysis that would not be feasible – especially within the context of a comprehensive impact estimation programme. Given the challenges associated with the quantification of dynamic impacts and their absence from this analysis, a methodology based on total welfare would be misleading since static total welfare would not provide a fair reflection of the value of our work.6

1.5 Our consumer savings estimate only includes the direct impact of our work on consumers. Many of the beneficial outcomes of the OFT’s work are not quantifiable and are not included in the total benefits shown in Table 1.1 - for example, any psychological detriment averted by our actions, deterrence effect of our competition enforcement work, and impact of increased competition on productivity. In addition, it

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does not comprise the full extent of the OFT’s work. The total estimate of consumer savings is therefore conservative.

1.6 Most of the estimated consumer savings in this report are ex ante, as ex post estimates from in depth evaluations are only available for a very small subset of our projects. The ex ante estimates are based on the best information available at the time of estimation. Where evidence is weak, the assumptions underlying the estimates are conservative.

1.7 The OFT and the Competition Commission (CC) together operate the merger and market investigations regimes and the consumer savings for these areas are jointly considered. We have agreed an 80-20 rule to split impact estimates with the Competition Commission where the majority of impact would go to the 'main actor' body. In the merger regime for example, the OFT would be the 'main' body where undertakings are accepted in lieu of reference, whereas the CC would be the 'main' body if the merger was referred. The CC would be the main body for market investigation references (MIRs) while the OFT would be for market studies (that could get referred to the CC) and

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7 Note that the estimates of benefits from our markets and consumer work covers a subset, and not all, of our projects. We only claim benefits from any enforcement work in the area of consumer protection, and only include those market studies and reviews where our recommendations have already been implemented. Activities not included are, for example, support provided to Trading Standards Services across the country, OFT work on competition advocacy, consumer codes, and consumer and business education and awareness campaigns. We continue to work to get a better understanding of our impact in these areas. For example; we have recently evaluated the financial benefits to consumers from two of our consumer education campaigns. www.oft.gov.uk/shared_oft/reports/Evaluating-OFTs-work/of1323.pdf. We also recently evaluated OFT’s Competition Advocacy work (April 2010) www.oft.gov.uk/OFTwork/publications/publication-categories/reports/Evaluating/of866.

8 The estimates are ex ante to the extent that the full impact of the completed projects is not observable.
reviews of orders and undertakings. The specific percentages applied in the apportionment (80:20) are broadly based on costs incurred by the organisations on the mergers and market investigations.

1.8 For discrete, time-limited projects we will first include an estimate of their impact in the annual report for the year in which the project is completed. For market studies, or other work that recommends action by OFT or other agencies, we use ex post estimates from later evaluations when available and if not, rely on ex ante estimates of impact. We will publish ex ante estimates of impact in the annual report for the year that the recommendations are implemented. In the case of ex post estimates from evaluations of market studies, we include those OFT interventions that have had an impact on consumers within the relevant financial period.

1.9 We use the Consumer Price Index to take account of inflation. All figures are rounded to the nearest one million pounds. In line with Central Government techniques for discounting future accruals of benefits or costs, we discount future consumer savings by the HMT endorsed Social Time Preference Rate (3.5 per cent).

**Estimated consumer savings**

1.10 We estimate that consumers directly saved £83m per year on average over the period 2008 to 2011 from the OFT’s work on enforcement of competition law, that is, investigating cartels and other commercial agreements, and abuses of dominant position in markets.

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9 For each intervention, the primary agency will estimate its benefits according to the methodology it considers most appropriate - on the grounds of proportionality and given that the primary agency is closest to the intervention, these estimates will be adopted by the other agency.

10 When including ex post estimates from evaluations, we ensure that ex ante estimates from the original investigation have not already been included so that there is no double-counting.

1.11 The total consumer savings from the merger regime is estimated at around £127m per year on average for the period 2008 to 2011. £90m of this may be attributed to the OFT, which includes an 80 per cent share of consumer savings from undertakings in lieu\textsuperscript{12} (UiLs) and mergers abandoned on referral to the CC (abandoned mergers) and 20 per cent from mergers blocked or amended by the CC following a reference.

1.12 We estimate that consumers directly saved £479m per year from our work on market studies, and reviews of orders and undertakings, and market investigation references carried out by the CC (we refer to this area as our 'markets work').\textsuperscript{13} The estimate of consumer savings attributed to the OFT in this area is £117m per year.

1.13 The total impact of our consumer protection enforcement work has been estimated at £36m. Of this, at least £3m can be attributed specifically to OFT actions to stop illegal scams.\textsuperscript{14}

1.14 We do not include the benefits from any deterrent effect of our work within our core estimates of consumer savings. But using the ratios

\textsuperscript{12} Undertakings in lieu (UiLs) are cases where the OFT accepts binding undertakings from the merging parties as an alternative to referring the merger to the CC. The undertakings must be aimed at preventing or remedying the adverse competition effects identified.

\textsuperscript{13} Note that this figure (£479m) for the direct financial benefits to consumers from market studies and reviews and MIRs is different from those presented as direct benefits for consumer from the market investigation regime (£465m) in the CC’s Annual Report as: i) the former takes into account all OFT market studies, including those where referral to the CC is not considered a possible option, and ii) the latter includes referrals to the CC from other regulators and the OFT is not apportioned any benefits from these MIRs.

\textsuperscript{14} This £3m is the impact of our scambusting work undertaken in 2008-09. We will not be able to report impact estimates for consumer protection enforcement under two separate categories (scams and non scams) in the future. In 2009, the OFT restructured the group previously responsible for consumer protection work (to further increase the impact of its consumer protection work) and the scams work was incorporated into the overall consumer protection enforcement umbrella.
derived from the Deterrence research carried out by Deloitte\textsuperscript{15} in 2007 would significantly enhance the benefits from mergers and competition enforcement. We estimate the total benefits including any deterrence effect to be almost £1000m.\textsuperscript{16}

**Changes to our methodology**

1.15 To account for the uncertainty of the outcome of a CC reference, our approach has always been to scale down the impact estimates of abandoned mergers and UILs by a percentage to allow for the possibility that the CC would not, in the event, have found a substantial lessening of competition. We have assumed that the percentage of UILs and abandoned mergers which would have been judged to involve a substantial lessening of competition is equal to the proportion of mergers actually examined by the CC in the previous three years in which it had found there was a substantial lessening of competition (referred to as the CC 'hit rate'). This year, following discussions with stakeholders,\textsuperscript{17} we have slightly modified our approach. We now calculate the hit rate based on the outcome of the last 30 merger cases examined by the CC, rather than cases examined by the CC over the previous three years. This is a technical

\textsuperscript{15}See 'The deterrent effect of competition enforcement by the OFT', OFT962. The research, based on surveys of competition lawyers and businesses, indicated the ratio of anti-competitive actions abandoned or modified because of the risk of an investigation to those resulting in a CA98 decision. According to the survey of Competition Lawyers the ratio was: five to one for cartels, seven to one for commercial agreements, and four to one for abuses of dominance. Corresponding ratios from the business survey were higher. Section 3 of this report includes a brief discussion and a rough estimate of benefits from any deterrence effect of our mergers and competition work.

\textsuperscript{16}The direct effect of competition enforcement and merger control over the years 2008 to 2011 was estimated to be around £173m annually on average. Assuming indirect benefits to consumers through deterrence could be five times as much (based on the Deloitte 2007 report); this would amount to some further £800m per year.

\textsuperscript{17}We discussed our approach at an OFT/CC best practice mergers group and also discussed our proposed changes with an academic advisor.
modification that helps to avoid severe (and misleading) fluctuations from year to year in our estimates of the savings from merger control, but should have neutral implications for our estimates of savings in the long run.

1.16 We view our methodologies as works in progress and will continue to develop these. We continue to explore some of the suggestions made in the independent review of our methodologies.18

Structure of the document

1.17 Section 2 presents detailed estimates of consumer savings from specific areas of OFT’s work covering: competition law enforcement, merger control, markets work, and consumer protection enforcement. In section 3, we discuss findings from our recent ex post evaluations including the wider benefits of our work. Section 4 presents the total and partial OFT costs, and section 5 concludes by summarising the benefits and costs for the period 2008-11.

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18 We implemented some changes to our methods last year (such as for example revising our default price assumption when estimating impact of our competition enforcement cases). We intend to continue working on some of the other suggestions made by Professor Davies in his review – such as for example, testing our methodology to estimate impact of our consumer work over 2011-12. We also intend to explore some alternative simulation models to estimate the impact of our mergers work. Some of these models have recently been used (admittedly to a limited extent) in our mergers investigation process and may yield more robust estimates of impact.
2 CONSUMER SAVINGS BY AREA

Introduction

2.1 This section presents estimates of impact of our work for each of the following areas: enforcement of competition law, merger control, markets work, and consumer protection enforcement. The specific methodologies used to estimate impact in each of these areas have been explained in the document, 'A guide to OFT's Impact Estimation methods' published on the OFT website.¹⁹

2.2 For mergers and market investigations, the OFT is the first stage authority in a two stage process (referring cases where there are competition concerns for further investigation to the CC, the second stage authority). Our estimates of consumer savings from mergers and market investigations therefore include OFT's share of CC's estimates.

Competition enforcement

2.3 The OFT engages in a range of activities to promote compliance with the Competition Act (CA98), including formally investigating and taking enforcement action against anti-competitive practices and giving informal advice. Under the Enterprise Act 2002 (EA02) we can also investigate and prosecute individuals who have dishonestly been involved in cartel activity.

2.4 We estimate conservatively that the OFT's interventions saved consumers at least £250m in aggregate between the financial years 2008 and 2011 resulting in annual average consumer savings of £83m. We consider this to be a lower bound estimate as it is based on case-specific conservative assumptions (that are typically lower than our default assumptions) about price overcharge and expected future duration and does not include the significant deterrent effect of our

competition enforcement actions.\textsuperscript{20} If we were to apply our default rules of thumb of 15 per cent price overcharge and six year expected future duration instead, the estimated benefits would be about £126m annually on average over the last three years.

\textbf{Merger control}

2.5 The OFT is the first stage of a two stage merger regime. Under the Enterprise Act 2002, it has the duty to review merger situations and refer to the CC any cases where there is a realistic prospect of a substantial lessening of competition (SLC) in UK markets. The OFT has the power to accept Undertakings in Lieu (of CC reference) (UiL) from the merging parties, if these are deemed to address potential concerns highlighted in the course of its investigations.

2.6 Our estimates of consumer savings in this area include proposed mergers amended by the OFT through UiLs, proposed mergers that are abandoned on referral to the CC (abandoned mergers), and proposed mergers amended or prohibited by the CC. We have agreed an 80:20 rule to split impact estimates with the Competition Commission so that the OFT is credited with 80 per cent of the benefits from UiLs and abandoned mergers (with 20 per cent going to the CC) and 20 per cent of the benefits from CC’s merger decisions (of which the CC claims 80 per cent).

\textsuperscript{20} See 'The deterrent effect of competition enforcement by the OFT', OFT962. The research, based on surveys of competition lawyers and businesses, indicated the ratio of anti-competitive actions abandoned or modified because of the risk of an investigation to those resulting in a CA98 decision. According to the survey of Competition Lawyers the ratio was: five to one for cartels, seven to one for commercial agreements, and four to one for abuses of dominance. Corresponding ratios from the business survey were higher. Section 3 of this report includes a brief discussion and a rough estimate of benefits from any deterrence effect of our mergers and competition work.
2.7 During the past three financial years (2008 to 2011), the merger regime has saved consumers £127m per year on average, of which £90m per year is apportioned to the OFT.21

2.8 Table 2.2 presents the average annual estimates of consumer savings from the merger regime for the years 2008 to 2011. The estimates for abandoned mergers and UiLs have been scaled down by the CC 'hit rate' (47 per cent). The CC hit rate is simply the proportion of the last 30 mergers examined by the CC in which it found an SLC. This discounting is to account for the uncertainty of the outcome of a CC reference.

Table 2.2: Average annual consumer savings from the merger regime, 2008-11

<table>
<thead>
<tr>
<th></th>
<th>Estimated average annual consumer savings</th>
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<tbody>
<tr>
<td>UiLs</td>
<td>£104m</td>
</tr>
<tr>
<td>Abandoned mergers</td>
<td>£3m</td>
</tr>
<tr>
<td>CC merger decisions</td>
<td>£20m</td>
</tr>
<tr>
<td>Total – joint mergers regime</td>
<td>£127m</td>
</tr>
<tr>
<td>Benefits apportioned to the OFT</td>
<td>£90m</td>
</tr>
</tbody>
</table>

Range estimates

2.9 We present a range of estimates (rather than a point estimate) to reflect the uncertainty surrounding the assumptions used to estimate impact. For example, one of the key inputs for merger simulation is the market elasticity of demand. Reliable estimates of the market elasticity of demand are difficult to obtain, and we rely on case information to

21 This figure is based on conservative case specific assumptions – particularly for cases where our simulation model is not appropriate. We are exploring possible refinements to our methodology to increase its scope and this includes considering alternative simulation models that may give us more robust results. We may therefore revise our estimates accordingly in the future.
provide us with an indication of its likely size. We typically estimate a range of consumer savings from a merger case by applying low, medium, and high elasticity (assumed) values but only report the 'reasonable' mid point estimate for the 5:1 target.

2.10 We estimate that our merger control work over 2008-11 has led to average annual consumer savings in the region of £78m to £102m. Figure 2.3 below presents the range of impact estimates obtained by varying the assumed elasticity values. The estimates do not include any benefits from the deterrent effect of our mergers work.22

Figure 2.3: Range of estimated consumer savings from our merger control work, annual average over the period 2008 to 2011

22 The legal survey undertaken as part of the Deterrence research by Deloitte in 2007 indicated that at least five proposed mergers were abandoned or modified on competition grounds before the OFT became aware of them for each merger blocked or modified following intervention by the UK competition authorities. See OFT962 - www.oft.gov.uk/shared_oft/reports/Evaluating-OFTs-work/of962.pdf.
Market studies, reviews of orders and undertakings, and market investigation references

2.11 Typically, OFT market studies are examinations into the causes of why particular markets are not working well for consumers, leading to proposals as to how they might be made to work better. They take an overview of regulatory and other economic drivers in a market and patterns of consumer and business behaviour.

2.12 The OFT may refer markets to the CC for further investigation where it has reasonable grounds for suspecting that any feature, or combination of features, of a market is preventing, restricting, or distorting competition. In estimating consumer savings therefore, we consider the impact of the market investigations regime as a whole and include a proportion of impact of MIRs carried out by the CC. The CC, in turn, is apportioned a proportion of consumer savings from OFT market studies and reviews.\(^23\)

2.13 In addition, we only claim a proportion of the impact estimates from OFT projects that involved other government departments/ bodies or industry stakeholders. So, for example, where OFT recommendations from a market study are implemented by a government department, the impact estimates would be apportioned between the OFT and the relevant government department.

2.14 We only include benefits from market studies and reviews once our recommendations have been implemented and we therefore only cover a subset of our projects in this area.

\(^{23}\) For market investigations carried out by the CC following a reference by the OFT, 20 per cent of impact is apportioned to the OFT and 80 per cent to the CC. The OFT does not claim any impact from referrals to the CC by other regulators. For the OFT market studies and reviews of undertakings and orders that involve or could involve the CC, 80 per cent is apportioned to the OFT and 20 per cent to the CC. For market studies where referral to the CC is not considered as a possible option, the OFT is attributed with 100 per cent of the impact.
Monitoring impact

2.15 We use both ex post as well as ex ante analyses to estimate the impact of our markets work. Ex post estimates of impact are robust and based on information gathered after the OFT recommendations have been implemented and the resulting impact realised, but these are only available for a small subset of projects. Ex ante estimates of impact are based on the best information available at the time of estimation – which is typically when the recommendations have been implemented but the full impact from it is not observable. Therefore it involves impact estimation and monitoring of market developments.

2.16 The last two Positive Impact notes (08-09, and 09-10) have included ex ante estimates of impact from the Payment Systems Task Force Review. In 2010/11, we continued to monitor the new faster payments service which was the key driver of (quantitative) impact from our PSTF review work. We have slightly revised the estimates upwards as we found that take up of the faster payments service by the industry had increased. This year we included estimates of impact from our work on Cash ISAs. We will monitor this market over 2011-12 and may revise our estimates based on evidence found.

2.17 We have also included ex post estimates of consumer savings from our work on the Care Homes market. This was taken from the evaluation of the Care Homes market study by the consultants, GHK.

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24 Note that while faster payments service was only one of the changes implemented following the recommendations of the OFT chaired Payment Systems Task Force, we focus on it as this was the main driver we relied on when quantifying the impact of our work.

Consumer savings estimate

2.18 Overall average annual consumer savings from markets work are estimated at £479m for the three-year period 2008 to 2011. Of this, £117m has been apportioned to the OFT.

Table 2.4: Average annual consumer savings from our markets work 2008-11

<table>
<thead>
<tr>
<th>Estimated average annual consumer savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>CC MIRs</td>
</tr>
<tr>
<td>OFT market studies, and reviews of orders and undertakings</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Benefits apportioned to the OFT</td>
</tr>
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</table>

Consumer protection enforcement

2.19 The OFT’s consumer protection enforcement work seeks to change trader behaviour that contravenes consumer protection legislation using a range of interventions such as issuing informal warnings, accepting undertakings under the Enterprise Act, or obtaining Court Orders.

Note that this figure (£479m) for the direct financial benefits to consumers from market studies and reviews and MIRs is different from those presented as direct benefits for consumer from the market investigation regime (£465m) in the CC’s Annual Report as: i) the former takes into account all OFT market studies, including those where referral to the CC is not considered a possible option, and ii) the latter includes referrals to the CC from other regulators and the OFT is not apportioned any benefits from these MIRs.

Trading Standards are also responsible for consumer protection enforcement and tackling unfair trading practices. This section only considers the consumer savings resulting from OFT enforcement action. An evaluation of the impact of the fair trading work of local authority Trading Standards Services in the UK, June 2009, OFT1085 can be found at: www.of.t.gov.uk/shared_of.t/about_of.t/of.t1085.pdf
2.20 All interventions are aimed at protecting consumers, particularly vulnerable consumers, from rogue trading, unfair commercial practices and other breaches of consumer protection legislation. Our methodology to estimate impact of consumer protection enforcement is a work in progress and is currently being piloted. It is likely to be modified in the future and impact estimates in this area may be revised accordingly. It must be noted that our methodology only covers consumer enforcement work which is a sub set of our wider consumer work.

2.21 As in the case of our markets work, where available, we use evidence from in depth ex post evaluations of consumer enforcement cases to inform our impact estimates (but this is typically only for a small subset of our projects). In most cases, we rely on case team’s knowledge and conservative assumptions to estimate ex ante the impact of our work. We then monitor the market to gather evidence on the assumptions underlying our impact estimates.

**Consumer savings estimate**

2.22 For the period 2008 to 2011, the total consumer benefits from consumer protection enforcement as a whole has been estimated at £36m per year on average.

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28 In 2010-11, we tested the methodology on two cases. We intend to continue testing it on further cases and will then make necessary revisions to the method based on findings from the pilot.

29 We do not include, for example, any benefits from our consumer education and awareness work or other non-enforcement activities.
Table 2.5: Average annual consumer savings from OFT consumer protection enforcement, 2008-11

<table>
<thead>
<tr>
<th>Estimated average annual consumer savings</th>
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</thead>
<tbody>
<tr>
<td>Consumer protection enforcement</td>
</tr>
<tr>
<td>Scam busting(^{30})</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

\(^{30}\) We will not report impact estimates for consumer protection enforcement under two separate categories (scams and non scams) in the future. In 2009, the OFT restructured the group previously responsible for consumer protection work (to further increase the impact of its consumer protection work) and the scams work was incorporated into the overall consumer protection enforcement umbrella.
3 WIDER BENEFITS

Introduction

3.1 In addition to assessing the direct impact of our interventions to meet the 5:1 performance target agreed with HMT, we conduct in depth evaluations of past interventions and research on wider benefits of the OFT’s work, such as for example, the deterrent effect (that is, the actions abandoned or significantly modified by businesses because of the risk of investigation) of our interventions, impact on consumer and business confidence in markets, and (wider) impact of competition on innovation, markets and productivity.

3.2 This section draws on findings from recent OFT evaluations that illustrate the impact of our competition and consumer work. It also considers the likely impact of the deterrent effect of our mergers and competition work.

Evaluating the impact of OFT's 2001 decision against Napp

3.3 This in house evaluation, conducted by OFT economists and independently reviewed by Professor Stephen Davies of the University of East Anglia, looked at the impact on the sustained release morphine\(^3\) (SRM) market of the 2001 OFT decision and subsequent restrictions imposed on Napp pharmaceuticals.

3.4 In 2001, Napp was found by the OFT to be supplying SRM to patients in the community at excessively high prices while supplying to hospitals at high discount levels with the effect of eliminating competition. The £3.2 million fine against NAPP (subsequently reduced to £2.2 million) was the first financial penalty to be set by the OFT under competition law.

\(^3\) Sustained release morphine is used to manage severe pain and commonly used in the treatment of cancer-related pain.
The evaluation found increased competition in the sustained release morphine (SRM) market over the past decade, following the OFT’s intervention. In particular:

- Napp’s list price for its SRM products in the community had reduced by approximately 25 per cent, in excess of the 15 per cent decrease stipulated by the OFT in its 2001 decision.

- The OFT’s 2001 intervention had stimulated entry into the SRM market. Napp’s market share in the hospital segment had fallen from approximately 95 per cent to 50 per cent and in the community segment from 95 per cent to 65 per cent.

- Increases in Napp’s SRM prices to hospitals had to some extent counterbalanced the savings from cheaper community prices. Nevertheless, the report conservatively estimated that the intervention had saved the NHS in excess of £1.5 million in each year between 2001-2009.

The report acknowledged that the impact of the 2001 intervention had potentially been enhanced by the increase in generic prescribing of SRM.

Evaluating the impact of the 2005 OFT study into care homes for older people

The independent evaluation of the 2005 market study into care homes for older people, carried out by GHK consulting, found improvements in the provision of information to consumers.

The evaluation was based on engagement with residents, a survey of care homes, a mystery shopping exercise, and a survey of local authorities. Key findings included –

- 94 per cent of care homes said they provide residents with a contract or statement of terms and conditions, compared to 82 per cent six years ago
• 90 per cent of mystery shopper callers were able to obtain information on fee levels, and 79 per cent of care homes surveyed reported that they provide detailed price lists to prospective residents.

• following an OFT recommendation to establish a 'one stop shop' for information, the First Stop Care Advice service was set up which, alongside the Care Information website and helpline in Scotland, has seen high rates of satisfaction.

3.9 The quantifiable benefits to consumers was estimated to be in the region of £6-10 million per year, with further evidence of other, non-quantifiable, benefits including on information provided to consumers. However, the report highlighted room for improvement in provision of information to residents on complaints procedures, and consumer awareness of relevant information, such as inspection reports, contracts and other sources of information when deciding on a care home.

Evaluating the financial benefits for consumers of consumer education and awareness campaigns

3.10 The OFT commissioned the Central Office of Information (COI) to conduct an evaluation of OFT’s Skilled to go consumer education programme, and the Just Tick it marketing campaign. The evaluation aimed to review the two OFT communication interventions and estimate benefits delivered for consumers and to draw lessons for future interventions.

3.11 The methodology focused on quantifying immediate consumer benefits (excluding the more dynamic benefits) from the interventions. COI estimated that the 'Just Tick it' campaign delivered consumer savings of about £0.8m over two years and benefits from 'Skilled to Go' were estimated at over £2m over three years with benefits from the interventions far exceeding their costs. However, the report acknowledged that the precision of the benefits calculations could be improved in the future by gathering and recording relevant data.
Benefits from deterrence

3.12 Our core estimates of consumer savings used to measure our performance against the 5:1 target do not include any benefits from the deterrent effect of our mergers and competition enforcement work. The OFT, as part of its evaluation work, commissioned Deloitte to analyse the scale of the deterrent effect and to provide further insight into the key factors driving compliance with competition law. The research published in 2007 suggested that the deterrent ratio for mergers and competition enforcement was approximately five to one (so for example five mergers modified or abandoned for every merger decision by the OFT).

3.13 To provide a guide of the scale of the deterrent effect – the direct effect of competition enforcement and merger control over the years 2008 to 2011 was estimated to be around £173m annually on average. Assuming indirect benefits to consumers through deterrence could be five times as much; this would amount to some further £800m per year.\(^{32}\) If these were included in our core estimates of benefits, our benefit to cost ratio would be as high as 25:1.

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\(^{32}\) This figure should be viewed as an approximation that illustrates what the scale of the deterrence effect might be. It is based on the average deterrence effect of our competition enforcement between 2000 and 2006, and thus may be different from the marginal deterrent effect of our current competition enforcement.
4 COST

Introduction

4.1 In this section we present the total costs of the OFT excluding Consumer Direct, Consumer Credit Licensing, and Anti Money Laundering\textsuperscript{33} which are not included in the 5:1 HMT target. We also present the partial costs covering the areas for which we have presented consumer savings estimates.

4.2 Cost figures may fluctuate from year to year and as such will impact on the benefit to cost ratios reported in the Positive Impact reports. To smooth out any such fluctuations, we use a three year moving average for total and partial costs. This is consistent with the way in which we report estimated benefits.

Average annual costs, 2008-11

4.3 The average annual OFT costs over 2008-11 (including running costs, litigation costs and capital) minus direct operating costs attributable to Consumer Direct, Consumer Credit Licensing, and Anti Money Laundering is £48m.

4.4 We estimate the average annual partial costs over 2008-11 covering the areas for which we present consumer savings (competition enforcement, merger control, markets work, and consumer protection enforcement) at £34m.\textsuperscript{34} These include direct salary costs of OFT staff contributing to one of the above four activities, other costs such as

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\textsuperscript{33} Consumer Direct is assessed separately under a separate target agreed with HMT of 3.5 to 1. Credit Consumer Licensing and Anti Money Laundering are excluded from the 5:1 assessment as they are self funding activities.

\textsuperscript{34} We continue to refine our approach to apportioning costs to different OFT activities based on updated organisational and cost information, with partial cost figures reflecting this improved approach.
external expert advice and research costs, as well as share of overhead and management costs in proportion to employee headcount.
5 CONCLUSIONS

5.1 We present in Table 5.1 estimates of consumer savings and OFT costs for the three year period 2008-11. The benefit to cost ratio for the period is 7:1, well above the 5:1 HMT target.

Table 5.1: Estimated consumer savings and OFT costs for 2008-11

<table>
<thead>
<tr>
<th>Estimated average annual consumer savings 2008-11(^{35})</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Competition enforcement</td>
<td>£83m</td>
</tr>
<tr>
<td>Merger control</td>
<td>£90m</td>
</tr>
<tr>
<td>Market studies, reviews of orders and undertakings, and market investigation references</td>
<td>£117m</td>
</tr>
<tr>
<td>Consumer protection enforcement</td>
<td>£36m</td>
</tr>
<tr>
<td><strong>Total benefits</strong></td>
<td><strong>£326m</strong></td>
</tr>
<tr>
<td><strong>Total OFT costs (averaged over 2008-11)</strong></td>
<td><strong>£48m</strong>(^{36})</td>
</tr>
<tr>
<td><strong>Partial OFT costs (averaged over 2008-11)</strong></td>
<td><strong>£34m</strong>(^{37})</td>
</tr>
<tr>
<td><strong>Benefit/Total OFT costs</strong></td>
<td>7</td>
</tr>
<tr>
<td><strong>Benefit/Partial costs</strong></td>
<td>10</td>
</tr>
</tbody>
</table>

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\(^{35}\) Consumer savings are estimated as an annual average over the three year period – 2008-09 to 2010-11.

\(^{36}\) This is total OFT costs (actual spend) minus costs of Consumer Direct, Anti Money Laundering and Consumer Credit Licensing.

\(^{37}\) This includes costs of areas included in this report for which we estimate impact.
5.2 The total benefits figure of £326m shown in table 5.1 is conservative as it does not comprise the full extent of the OFT’s work. It only includes the direct financial benefits to consumers from OFT’s work on enforcing competition and consumer law, and merger control, as well as its markets work.\textsuperscript{38}

5.3 The figures in table 5.1 exclude any benefits arising from the deterrent effect of our work which is likely to be significant. In addition, many of the wider/dynamic benefits of the OFT’s work are not quantifiable (for example, any psychological detriment averted by our actions, and impact of increased competition on productivity) and have therefore been excluded.

\textsuperscript{38} For example, it does not include support provided to Trading Standards Services across the country, consumer codes, and consumer education campaigns. We continue to work to get a better understanding of our impact in these areas.