

<b>Title:</b> <b>Consumer Landscape Review: Transfer of consumer enforcement powers</b> <b>IA No:</b> BIS0267 <b>Lead department or agency:</b> Department for Business, Innovation & Skills Other departments or agencies: NA	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 01/03/2012		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary Legislation		
	<b>Contact for enquiries:</b> Matt Bowhill 020 7215 6445		
<b>Summary: Intervention and Options</b>			<b>RPC:</b> RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
-£3.2m	0	0	No
			NA

**What is the problem under consideration? Why is government intervention necessary?**

Responsibility for UK consumer enforcement is split between Trading Standards (local/regional enforcement funded by Local Authorities and BIS) and the OFT (some national enforcement funded by HMT). An 'enforcement gap' has opened up as Trading Standards (TS) tend to focus on local issues while the OFT takes some national cases. BIS has attempted to address this gap by providing funding for regional enforcement activities for specific projects. However a recent report by the NAO was critical of existing measures to tackle this gap. Government has a duty to ensure consumer protection is effective and efficient and proposes to do this by clarifying responsibilities and strengthening national TS leadership.

**What are the policy objectives and the intended effects?**

This IA is one of 4 separate IAs that cover the legislative changes involved in the consumer landscape reforms. The objective of the reforms is to improve the enforcement of consumer law, in particular by tackling the 'enforcement gap'. Robust enforcement of consumer law helps to eliminate rogue traders while rewarding fair-dealing businesses by reinforcing consumer confidence in markets. Successful markets support innovation, productivity and ultimately growth. These objectives will be delivered by clarifying roles and responsibilities, strengthening national TS leadership and equipping it to prioritise and eliminate gaps.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The following options have been analysed, relative to a 'do nothing' option (i.e. the OFT, or its proposed successor body the single CMA, retaining the full suite of current OFT consumer enforcement powers):

- 1 All to TS: All the OFT's enforcement functions (and funding) transferred to Trading Standards.
- 2 All cross boundary enforcement to OFT: All cross boundary functions (and funding) transferred to CMA.
- 3 Hybrid - Rebalancing of responsibilities between OFT and LATSS

Option 3 is the preferred option, as it mitigates the risk associated with loss of OFT expertise under Option 1, maintains the value of local authority enforcement expertise (unlike Option 2), whilst providing sufficient resource for national leadership of TS and better co-ordination of national, regional and local enforcement. It is the only option that received acceptance from all key stakeholders. It involves costs but all options do as they involve the risk of some redundancies.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 01/18					
Does implementation go beyond minimum EU requirements?				NA	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b> NA	<b>Non-traded:</b> NA

**I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.**



Signed by the responsible SELECT SIGNATORY:

Date: 01/03/2012

# Summary: Analysis & Evidence

# Policy Option 3

**Description:** Hybrid: Rebalancing of responsibilities between OFT and LATSS

## FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -3.2	High: Optional	Best Estimate: -3.2

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	1	Optional	Optional
High	0		0.385	<b>3.2</b>
Best Estimate	0		0.385	<b>3.2</b>

**Description and scale of key monetised costs by 'main affected groups'**

OFT Staff Redundancy or pension top up (£1.74m – £3.1m), transfer of 3 staff pension top up (£240k) cost to Government. Transfer payments and not economic costs hence £0 transition economic cost. On going cost of the Trading Standards Policy Board secretariat (£385k) cost to Government. Additional employer pension contributions (£34k - £450k). Transfer payment and not economic costs.

**Other key non-monetised costs by 'main affected groups'**

NA

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	Optional		Optional	Optional

**Description and scale of key monetised benefits by 'main affected groups'**

Benefits are not monetised.

**Other key non-monetised benefits by 'main affected groups'**

The hybrid option clearly delineates the responsibilities of Trading Standards and the CMA with clear accountability for their respective functions. Via the new Trading Standards Policy Board and regular meetings between CMA and TS it would also set out mechanisms to prioritise cases and for resolving cases which cross the remaining TS boundaries.

**Key assumptions/sensitivities/risks**

Discount rate (%)

This option carries the least risk as it would have the buy in of LATSS and OFT/CMA. There are some risks regarding the abilities of LATSS to being the large cross cases to plug the enforcement gap but the transfer of funds from OFT and BIS to TS and the existence of the TSPB and should mitigate against this.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

# Evidence Base (for summary sheets)

## Introduction

### The consumer landscape reforms

1. This IA is one of four separate IAs covering the proposed legislative changes involved in the Government's Consumer Landscape reforms.
2. These reforms should improve consumer protection and help and empower consumers. This is critical to ensure that businesses and government understand and respond to their needs. In competition for custom firms will innovate and reduce costs thereby increasing productivity and stimulating economic growth.
3. Consumers also need to know who to turn to for advice, information and redress if things go wrong.
4. We are therefore simplifying the landscape to make Citizens Advice THE place to turn to for information and advice about consumer matters (Information, education and advice IA). They will be the publicly funded voice of the consumer, championing their needs and ensuring that consumers can make the right choices.
5. We also recognise that consumer interests need to be represented in a number of regulated industries (Advocacy IA). We see the benefits of bringing together existing Consumer Focus advocacy together with the information gathered through local Citizens Advice Bureaux and advice lines. This transition will be managed by the creation of an interim small, technical Regulated Industries Unit who will represent the views of other regulated industries until it is transferred to Citizens Advice.
6. Alongside ensuring that consumers are represented, we want to strengthen the protection for consumers from rogue businesses (Enforcement IA). Building on Local Trading Standards work at the local level we will provide funding and mechanisms to strengthen cross-boundary working and establish a Trading Standards Policy Board that will bring together regionally elected representatives from Trading Standards to tackle national and super-regional enforcement cases.
7. To improve leadership across the consumer landscape, share intelligence and prioritise we will establish a Strategic Enforcement and Intelligence Board with membership from Trading Standards, Competition and Markets Authority (CMA), Regulated Industries Unit, Citizens Advice and Which?
8. Supporting fair dealing businesses we will transfer the OFT's Consumer Codes work to Trading Standards Institute so the CMA can focus on competition (*Codes IA*).

### Enforcement IA

9. Effective enforcement of consumer law is an essential component in an effective consumer landscape. Even when consumers are fully empowered to exercise choice, there will still be risks from businesses that do not comply with the law. In addition to potential harm and unfairness in individual transactions, there is a wider concern that confidence in markets would be lost if non-compliance with the law became commonplace.
10. A recent report by the OFT found evidence of widespread consumer detriment amongst UK consumers – around one-third of consumers reported at least one problem in the last 12 months with goods or services they had purchased, with almost half of these reporting multiple problems.<sup>1</sup> In total, the OFT estimated that consumers experienced over 25 million problems per year with goods and services leading to a total value of consumer detriment exceeding £6.6 billion. In 2009, Consumer Focus estimated that the annual consumer detriment in Great Britain associated from unfair commercial practices alone was £3.3 billion.<sup>2</sup> A more recent survey by the European Commission found that 8% of consumers reported having a problem with a good or service recently purchased.<sup>3</sup>

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<sup>1</sup> 'Consumer detriment', OFT (2008)

<sup>2</sup> 'Waiting to be heard', Consumer Focus (2009)

<sup>3</sup> 'The Consumer Markets Scoreboard: 4<sup>th</sup> Edition', European Commission (2010), available at: [http://ec.europa.eu/consumers/strategy/docs/4th\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/strategy/docs/4th_edition_scoreboard_en.pdf)

11. In many cases, a targeted approach to compliance linked to the threat of enforcement action may be appropriate. Enforcement action itself may still be necessary for those who choose to flout the rules, or who disempower consumers by misleading them or treating them unfairly. This includes rogue traders and other scam operators who may often be criminal enterprises.
12. Responsibility for enforcing the bulk of consumer law in the UK is shared between the Office of Fair Trading (OFT) and Local Authority Trading Standards Services (LATSS). Local enforcement is undertaken by LATSS, with the OFT generally taking on large or complex enforcement cases with a strong national dimension.
13. While the UK consumer protection regime works well compared to many other countries evidence from independent reports suggest that there are gaps in enforcement and unnecessary complexities.
14. This impact assessment addresses proposed clarification of the roles of the consumer landscape enforcement institutions, designed to address an 'enforcement gap', which should reduce the consumer detriment identified above. This will enable the development of mechanisms (from existing budgets) within Trading Standards to provide the leadership and coordination of enforcement activity against national and cross-boundary threats. It will also provide for a greater joined-up approach between Trading Standards organisations and the OFT.
15. **Legislation:** This proposal clarifies the balance of responsibilities for enforcement of consumer protection law between OFT and TS.
  - Whilst Trading Standards retain their existing duty to enforce the Consumer Protection from Unfair Trading Regulations, legislation will amend the Regulations so that OFT have a power rather than a duty.
  - We will make amendments to the Enterprise Act so that enforcers will be required to notify the Trading Standards Policy Board secretariat when they bring an enforcement action. In addition amendments to the Enterprise Act will be required to ensure that local authorities consult, as they think fit, with other local authorities and OFT before taking actions (previously it was not clear if relevant gateways existed). The OFT direction making powers in section 216 will be repealed so OFT can no longer direct TS not to take action.
  - In addition legislation will amend section 222 of the Local Government Act 1972 with a view to ensuring that local authorities can more easily bring proceedings outside their geographic area.
  - Amendments will be made by Order under the Public Bodies Act, though some changes may have to be made through primary legislation.

## Background

16. While the UK's consumer protection regime compares well with other countries in terms of the levels of protection currently enjoyed by consumers<sup>4</sup>, there is a complex landscape of legislation, policy and enforcement bodies. Some recent reports have identified complexity and split responsibility for enforcement as key weaknesses.
  - A report in 2008 by the University of East Anglia to benchmark the UK's consumer empowerment regime found that the UK regime fared well overall but identified uneven enforcement as a key weakness, alongside overly-complex legislation<sup>5</sup>.
  - The 2011 NAO report 'Protecting Consumers' reviewed consumer protection and found that much consumer detriment occurs at the national or regional level but that incentives are weighted towards tackling local issues. This contributes to an 'enforcement gap' where large regional and some national cases may not be addressed.
  - The 2011 report of the Public Accounts Committee made recommendations to the Government regarding accountability and the operation of the system.

<sup>4</sup> European Commission (2010). The Consumer Markets Scoreboard 3<sup>rd</sup> Edition ([http://ec.europa.eu/consumers/strategy/docs/3rd\\_edition\\_scoreboard\\_en.pdf?reload](http://ec.europa.eu/consumers/strategy/docs/3rd_edition_scoreboard_en.pdf?reload))

<sup>5</sup> BERR (2008). Benchmarking the performance of the UK framework supporting consumer empowerment through comparison against relevant international comparator countries (<http://www.bis.gov.uk/files/file50027.pdf>)

17. Currently, consumer law enforcement is shared between TS and the OFT, with some functions resting with sectoral regulators and a limited power with the consumer organisation Which?. This impact assessment deals with the responsibilities of TS and the OFT.

### **Trading Standards (TS)**

18. In broad terms, TS are responsible for dealing with most threats to the fair trading environment. However, TS receive the majority of their funding from local authorities, and as a result, tend to take cases that reflect local priorities.
19. The total local authority spend on TS operations throughout the country was approximately £213m in 2009/10.<sup>6</sup> In the current financial year, the figure is probably somewhat lower and over the spending review period 2011-2014 it is expected to decline by a further 20-30%. This decline may not be uniform, with some authorities, regions or countries seeing less reduction in service and some more.<sup>7</sup> On this basis, BIS estimates that the total amount spent by local authorities on Trading Standards work could fall to £140m-£170m by 2014. Of course, this amount is spread across all LATSS functions. Estimates vary, but fair trading work probably accounts for something less than half of this.
20. To complement this work, BIS spent £9.5m in 2010/2011 to support the enforcement effort, mainly through funding regional 'Scambuster' and Illegal Money Lending teams. The Scambuster teams in particular enabled enforcement action to be taken in cases that did not necessarily match individual LATSS' priorities but where the cross-boundary effect was seen to be substantial.
21. In addition BIS spends approximately £10m per annum supporting TS by establishing regional investigative teams and some specialised national enforcement squads, but most of the TS professionals sit in the local authorities and are funded by them.

### **OFT**

22. The OFT has wide duties to enforce consumer law but in practice selects mainly larger national and ground-breaking cases<sup>8</sup>. The OFT also issues guidance and develops some enforcement policy. Both LATSS and OFT work with business to ensure compliance with the law as a matter of course; formal enforcement action is seen as a last resort. The budgets supporting all this activity are under pressure, given the public sector spending constraints.

## **Issue**

23. Consumer enforcement activity must be sustained at a certain minimum level across the entire country for it to have a credible overall impact and prevent 'gaming'. Consumers and businesses increasingly interact across a wide geographic area. Residents of one local authority could suffer in the event of inadequate enforcement by Trading Standards service in another area. Additionally, 'gaming' may occur if areas where enforcement is weaker attract rogue businesses, which then draws further on limited resource, creating a vicious cycle.
24. Therefore, enforcers must be able to work collectively and have efficient mechanisms for targeting regional and national threats, as well as local ones. Recent evidence collected by the National Audit Office indicates that the costs associated with detriment-causing activities that cannot be dealt with at the local level amount to £4.8 billion per year.<sup>9</sup> This means that locally-funded TS officers in any given local authority will inevitably spend some of their time serving the interests of citizens living in other places, whilst citizens in that local authority will benefit in turn from the enforcement efforts of others.
25. However, evidence from representatives from TS supported by statistics from the Chartered Institute of Public Finance and Accountability (CIPFA)<sup>10</sup> indicate that resources for enforcing consumer law are limited, with several local authorities having fewer than 10 TS officers. The Government is concerned that very small, stand-alone Trading Standards services appear to have difficulty fulfilling

<sup>6</sup> [www.tradingstandards.gov.uk/policy/policy-pressitem.cfm/newsid/479](http://www.tradingstandards.gov.uk/policy/policy-pressitem.cfm/newsid/479)

<sup>7</sup> For example, Scottish Local Authorities are facing different funding cuts from the English authorities and this may not lead to such significant cuts.

<sup>8</sup> Such as the recent test case on unauthorised overdraft charges

<sup>9</sup> Comprising £3.5 billion in mass market scams and £1.3 billion in Intellectual Property Crime; source: 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

<sup>10</sup> <http://www.cipfa.org.uk>

statutory obligations, let alone other useful services such as second-tier advice, support for compliance, consumer education or enforcement work in bigger, resource-intensive cases.<sup>11</sup> This creates the potential for an ‘enforcement gap’.

## **An ‘enforcement gap’ between local/regional and national enforcement**

### **Lack of consistency of enforcement**

26. This concern is supported by the results of a review of Trading Standards in Scotland by Consumer Focus Scotland.<sup>12</sup> The review found a lack of consistency in the services offered to consumers and to businesses with no effective national system in place to measure the effectiveness of the service and that resources to support trading standards services differed enormously across Scotland’s 32 councils. Although the review was limited to Scotland, similar issues may be prevalent in the rest of the UK.
27. Further evidence recently collected by the National Audit Office also supports this. The only statutory requirement is the employment of a single weights and measures officer. The smallest TS service has 2.5 staff, with the largest having over 80 and resourcing varies from £240,000 to over £6 million annually. There is one Trading Standards officer for every 36,000 people in the West Midlands, but only one for every 70,000 people in London. There is also wide variation in the status of the head of service, with around a third being relatively junior positions, in the fifth or sixth tier of local authority management<sup>13</sup>.

### **Lack of incentive for local/regional TS to tackle national/regional enforcement**

28. The NAO report on protecting consumers found that while there could be at least £4.8bn of consumer detriment at regional and national levels, incentives are weighted in favour of local priorities.
29. A great proportion of funding for enforcement (over 80%) is controlled by local authorities which prioritise local issues. A survey of Local Authority Trading Standards (LATSS) conducted by NAO found that ‘national objectives’ was only cited as an influence on LATSS workloads by 9% of respondents. There can be strong cost and risk disincentives, especially for small LATSS, to taking on large complex cases. The level of resource required to investigate and prosecute cases involving cross-boundary or national issues varies widely – the NAO found that costs could vary from £30,000 (for a more straightforward cross-boundary case) to over £200,000 (involving itinerant traders and recurring instances of doorstep crime). Under current funding arrangements, this means that around half of LATSS would need to commit over 40% of their annual staff budget to resourcing such a case<sup>14</sup>. In separate example a judgement in a recent cross boundary case resulted in an individual Local Authority being ordered to pay £4m in legal costs.
30. Given the budgetary pressures currently facing LATSS, there is a threat that more and more local Councils will no longer be able or willing to prioritise larger, cross-boundary cases. The OFT, itself under financial pressure and prioritising work arising out of its own market studies, is not well-placed to fill this gap, especially in respect of the action against larger-scale rogue traders, which is one of the Government’s priorities. It is therefore essential to identify the most effective mechanism for maximising enforcement action with the available budget.
31. The likely reduction (unrelated to this proposal) in co-ordination of TS work arising out of the abolition of Local Government Regulation and the reduction in resources allocated to regulatory services within the Local Government Group accentuates this threat. Mechanisms to co-ordinate activity and sustain the self-interest and collective confidence in an effective system undertaking cross-boundary enforcement work must be maintained.

### **Concern over existing coordination mechanisms**

32. Current mechanisms for coordination between LATSS and the OFT do not appear to be working well – for example, the OFT has only been able to take enforcement action on 2 of the 15 cases referred on by TS over the last two years. In addition, 41% of respondents to an NAO survey of LATSS felt that the referral system between TS and the OFT was not effective<sup>15</sup>.

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<sup>11</sup> For example, a judgement in a recent case resulted in an individual Trading Standards Service being order to pay £4m in legal costs

<sup>12</sup> [www.consumerfocus.org.uk/assets/3/files/2009/10/CFS-Up-to-Standard.pdf](http://www.consumerfocus.org.uk/assets/3/files/2009/10/CFS-Up-to-Standard.pdf)

<sup>13</sup> ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office

<sup>14</sup> ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office

<sup>15</sup> ‘Protecting consumers – the system for enforcing consumer law’, National Audit Office

33. The NAO found concerns with all the existing measures to strengthen cross border working. They were either inadequate, not reaching their potential, lacked funding or not being applied as intended.
34. This creates the opportunity for a new mechanism that can deliver the limited available resource towards this front line, to enable the TS network to continue to bring more cross-boundary cases and to ensure a consistent standard of enforcement across the country.

### **TS and OFT have developed different areas of legal expertise**

35. The OFT takes mainly civil cases, whereas TS act more often through the criminal law, though a number of civil cases have also been brought in recent years and options are being considered to increase their use of civil procedures as well. TS are responsible for weights and measures and product safety legislation and bring most of the cases under general consumer protection legislation. OFT have tended to focus on unfair contract terms and unfair commercial practices and distance selling legislation and are the responsible body for the negative licensing system for estate agents. Apart from those identified by the BIS-funded internet enforcement centre, OFT has tended in recent years to reduce the number of consumer enforcement cases year-on-year.<sup>16</sup>
36. In terms of prioritisation of types of action, the Government believes that enforcement against larger scale rogue traders and scams needs to be stepped up. Evidence collected by the OFT previously estimated that 3.2 million people fall victim to scams every year, with associated total losses of £3.5 billion.<sup>17</sup> More recent survey evidence indicates that scams remain a major problem, with nearly 1 in 20 households falling victim to a scam in 2010 and two-fifths of victims not reporting this to the authorities.<sup>18</sup> Similarly, evidence indicates that rogue trading is a significant source of consumer detriment, with Consumer Direct receiving over 5,300 complaints about rogue doorstep traders in 2009 – a 16% annual increase.<sup>19</sup>

## Rationale

37. Government budgetary pressures at both a national and local level combined with the risk of a widening 'enforcement gap' identified above, make it imperative that government maximise the efficiency of resource use and mechanisms within the current consumer enforcement regime.
38. As set out above, there are likely to be 'spillovers' (i.e. positive externalities) in enforcement where action is required to deal with regional or national threats by traders that operate beyond local authority boundaries. This means that locally-funded Trading Standards officers will inevitably spend some of their time serving the interests of citizens living in other places. There is therefore a risk that local authorities may 'free ride' on the efforts of others, potentially leading to the creation of havens for rogue traders and undermining the overall enforcement network from which all benefit.
39. The Government believes that enforcement actions should be better coordinated through a greater role for Trading Standards collectively taking responsibility for addressing threats, regardless of where they arise.

## Options identification

40. The following options to tackle the 'enforcement gap' were evaluated relative to a 'do nothing' option. In this case, that would entail the OFT (or its proposed successor body, the Competition & Markets Authority, CMA) retaining OFT's consumer enforcement powers and responsibilities, along with the same budget, and no new formal mechanism for greater co-ordination. Additionally, BIS would continue to set the requirements for Scambusters, Illegal Money Lending Teams, e-Crime, Ports Funding and the Fighting Fund.
  - Option 1: **All** the OFT's enforcement functions (and associated funding) are transferred to Trading Standards (All functions to TS)

<sup>16</sup> For example, evidence indicates that the number of complaints/enquiries under the Consumer Protection Regulations decreased by 93% between 2004/5 and 2007/8

<sup>17</sup> 'Research on impact of mass marketed scams', OFT (2006)

<sup>18</sup> source: <http://www.offt.gov.uk/news-and-updates/press/2011/09-11>

<sup>19</sup> source: <http://www.offt.gov.uk/news-and-updates/press/2010/82-10>

- Option 2: **All cross boundary enforcement** is undertaken by the OFT/CMA (All cross boundary functions to OFT/CMA)
  - Option 3: **Hybrid** (clarification of roles, establishment of TSPB to give TS national leadership, removal of some OFT duties, and transfer of some OFT enforcement resource to TS)
41. Two other options (a and b) were discussed at length with stakeholders in the consultation and replaced with option 3 (Hybrid). Please see Annex for further detail.
- Option a: The **majority** of OFT's consumer enforcement functions and budget, along with BIS funding, are transferred to Trading Standards, with some consumer enforcement powers retained by the CMA<sup>20</sup>. A Trading Standards Policy Board (TSPB) would be established to deliver national control and leadership from within TS (Majority of functions to TS, establish TSPB)
  - Option b: Establish a **Joint Enforcement Board** (JEB) made up of regional TS chiefs and OFT/CMA representatives to set priorities and coordinate TSS and CMA consumer enforcement (No change in functions, establish JEB)

**Table: Options considered in detail in this IA**

Option Name	Change in enforcement powers/functions	Other
1 All to TS	<b>All</b> the OFT's enforcement functions (and associated funding) are transferred to Trading Standards	N/A
2 all cross boundary to OFT	<b>All</b> cross boundary enforcement functions transferred to CMA	N/A
3 Hybrid	Clarification of responsibility for consumer enforcement between OFT and TS.	All BIS regional funding and some proportion of OFT consumer budget transferred to TSPB.  A new board to provide forum for joint consideration of intelligence and coordination of remaining OFT consumer enforcement work with TS.

## Options analysis

### Do nothing

42. The base case of 'do nothing' is influenced by the outcome of the parallel proposals to reform the competition regime.<sup>21</sup> If the proposals in that consultation are implemented, the OFT will no longer exist in its current form. Instead, a new Competition and Markets Authority (CMA) will take on the competition functions of both OFT and the Competition Commission. Therefore, in this scenario it would entail the CMA taking on all current consumer enforcement powers and related functions currently held by the OFT.
43. Although the 'do nothing' is viable it is not the Government's preferred course of action. While it has been well documented that there are synergies between consumer and competition policy<sup>22</sup>, this option does not realise any of the benefits associated with improved leadership and co-ordination of the TS network and would do nothing to address the growing 'enforcement gap'. In addition, there are likely to be significant benefits from having a single newly-merged competition authority with its competition focus undiluted by substantial consumer enforcement responsibilities.

<sup>20</sup> For example, as an optional instrument for resolving problems of competition in markets following market studies or investigations

<sup>21</sup> <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/11-657-competition-regime-for-growth-consultation.pdf>

<sup>22</sup> For example, see [http://www.offt.gov.uk/shared\\_offt/economic\\_research/offt991.pdf](http://www.offt.gov.uk/shared_offt/economic_research/offt991.pdf)



## Option 1: Transfer all of OFT's enforcement functions (and associated funding) to LATSS

44. This option would involve the transfer of all OFT's current consumer enforcement functions (and associated funding) to TS, which would take on the responsibility for the prioritisation and carrying out of enforcement cases.
45. The relevant proportion of the OFT budget would be combined with relevant BIS funds currently supporting consumer enforcement. Under this option, money could either be provided to LATSS through the Revenue Support Grant (which cannot be not ringfenced) to LATSS or be more specifically directed at strengthening the capacity, leadership and co-ordination of TS in order to support more effective action against cross-boundary threats, especially rogue traders and scam operators.
46. If the money were to be provided through the Revenue Support Grant there would be no guarantee it would be used to address fair trading priorities, much less national ones. If the money were to be ringfenced, it would not be available to supplement LATSS existing local enforcement work and would be used by TS **collectively** against national and regional threats. In this way, the additional funding would deliver greater efficiency in the way that local authority enforcement budgets are spent by improving co-ordination of effort between authorities; and by raising sights, based on improved intelligence, towards targeting the highest-priority sectors and infringements with the greatest consumer detriment. Nevertheless, even if the money were unringfenced, it could be accompanied by targets that would encourage LATSS to work closer together and address national enforcement priorities.
47. If the Government chose a variation of this option to provide leadership on cross-boundary enforcement, there would need to be some form of formal coordination between LATSS. The coordination group leading this would control intelligence analysis and set priorities for national enforcement. It would also be responsible for allocating money and cases to individual LATSS or regional teams. It is likely this body would need a secretariat providing administrative and technical support. Similar arrangements may be needed in Scotland.

### *Consultation responses*

48. This option received no support. It would completely break the link between consumer and competition policy. Trading standards have no appetite to deal with structural market cases or those linked to competition but where consumer enforcement may be the best remedy. Additionally, the possibility that money would not be ringfenced for national consumer enforcement was seen as a serious concern by many.

### **Costs**

49. There are four possible sources of costs associated with this option
  - transition costs (comprising mainly redundancy costs at OFT which would fall on Government)
  - intangible costs, such as loss of national enforcement expertise among OFT staff and loss of OFT deterrence effect in national enforcement cases;
  - loss of the benefits of integration between consumer enforcement work, competition policy and market analysis, and
  - familiarisation costs for consumers and business in adjusting to the new consumer landscape.

### *Redundancy costs associated with moving OFT enforcement functions to Trading Standards*

50. Analysis of OFT staff data indicates that 118 staff (including a proportional allocation of OFT back office) work on consumer enforcement. In this option all 118 staff could be made redundant because the funding would be transferred from OFT to TS.
51. Analysis of OFT length of service and salary data suggests that the average redundancy payment would be £44.6k. For 118 staff this would amount to a one off £5.3m redundancy cost<sup>23</sup>.

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<sup>23</sup> As this involves a transfer of budget there are no ongoing savings associated with the OFT redundancies because the funds would transfer to TS which would spend them on equivalent staff.

52. As the budget associated with these staff would transfer to TS we assume that there are no savings associated with the reduction in staff at OFT. We assume that TS would have to employ equivalent staff or contract other resources.
53. These redundancy estimates are the maximum likely cost because it is likely some staff will be retained by OFT/CMA as vacancies become available through natural attrition in areas CMA will retain and OFT/CMA has scope to move staff internally. As this is not the preferred option we have not attempted to survey OFT staff to assess the proportion at risk of redundancy further.
- Pension transfer and redundancy costs are transfers of cash and are not economic costs. A similar example is the potential transfer of pension liabilities from Royal Mail to the state which has been considered a transfer. Therefore these costs have a net impact of zero on the NPV. This is relevant for all options.

#### *Costs of TS acquiring necessary legal/economic or other resources*

54. As TS would be expected to undertake national cases they may need to develop or buy-in expertise slightly different to the expertise TS already have in-house. However, as the OFT budget for consumer enforcement (including overheads and relevant spend such as training) would be transferred to TS this would not involve additional spend.

#### *Loss of OFT deterrence effect*

55. As above, moving enforcement functions away from the OFT may result in consumer detriment if deterrence effects decline because businesses perceive a reduction in the threat of effective enforcement against them. Given TS experience of general consumer enforcement this risk is only feasible in complex markets where TS might have less experience. Business may doubt the capacity of TS to analyse complex markets with sufficient sophistication to collect the necessary evidence for successful enforcement. As this is not the preferred option the cost of this has not been quantified.
56. This option received no support in the consultation. It would completely break the link between consumer and competition policy. Trading standards have no appetite to deal with structural market cases where consumer enforcement may be the best remedy.

#### *Loss of benefits of integration between consumer and competition policy*

57. The benefits of integration between consumer and competition policy enforcement are, as stated above, well documented.<sup>24</sup> Consumer law enforcement is currently a remedy available to the OFT to use where it finds problems of competition in markets. Consumer enforcement capacity in these cases can be seen as an alternative tool for effective delivery of competition (as well as consumer) policy. Therefore, removal of such a tool from the competition enforcement body or bodies could therefore be seen as undermining effectiveness of competition policy delivery, which is not the Government's intention.
58. Furthermore this option did not receive any support in the consultation. Trading Standards does not have appetite to deal with structural market cases or those linked to competition but where consumer enforcement may be the best remedy. OFT also did not support this option. This raises the real concern that this option would not be able to deliver the possible benefits associated with a single authority responsible for consumer protection enforcement.

#### *Familiarisation costs associated with new landscape for consumers and businesses*

59. As TS already play a significant role in enforcement of consumer law, and because powers are simply transferring from one organisation to another, the transfer of powers from OFT to TS will not involve any significant familiarisation costs.

#### *Costs of setting up a coordination group*

60. A group may be necessary to support coordination of enforcement cases across Trading Standards boundaries as mentioned in the description of the option. We assume that *members* of the group would contribute time from within their existing leadership roles. However the group would require a secretariat and a new chair which would be an additional cost. The cost of the secretariat and chair are summarised below including an estimate of overheads at an additional 24 per cent. These are

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<sup>24</sup> For example, see [http://www.offt.gov.uk/shared\\_offt/economic\\_research/offt991.pdf](http://www.offt.gov.uk/shared_offt/economic_research/offt991.pdf)

ongoing costs. The number of staff required have been assessed through discussions between TS and BIS.

<b>Coordination group</b>	<b>chair</b>	<b>G7 secretariat</b>	<b>HEO secretariat</b>	
	<i>1 at £83k</i>	<i>2 at £48k</i>	<i>4 at £33k</i>	Total per annum
	102,920	119,040	163,680	385,640

## Benefits

61. There are two main potential types of benefit from this option. Improved leadership of trading standards enforcement by Trading Standards Services, along with a single budget is expected to support better enforcement of cases.
  - a. Improved leadership and coordination of TS enforcement
  - b. Benefits associated with pooled enforcement budget

### *Improved leadership and coordination of TS enforcement*

62. One of the main criticisms of the UK consumer enforcement system by businesses and independent commentators in the past has been that it is inconsistent and the efforts are uncoordinated. It is expected that TS would better allocate casework between different TS. Such an approach would establish clear responsibility for addressing all threats in an integrated way and should go a long way to addressing the criticisms.
63. A risk to this is if the money is not ring fenced it would not guarantee more co-ordination and therefore may not address this criticism effectively.
64. A co-ordinated approach would help to address the 'enforcement gap' and related consumer detriment of at least £4.8bn identified earlier. TS would be likely to need to coordinate local, regional and national threats and specialist teams can be established for specific purposes, as needs develop.
65. A priori, it is difficult to estimate what the impact on the level and scale of national enforcement cases might be under this option. However, we note that OFT has estimated that the average annual consumer benefits associated with its national enforcement activity for the period 2007-2010 was £42m.<sup>25</sup> This would suggest that even a small increase in national enforcement activity could yield significant consumer benefits.
66. Recent findings by the NAO indicate that the OFT has only chosen to take on 2 of the 15 enforcement cases referred by TS over the last two years. We would expect TS to undertake more of the 'enforcement gap' type cases and fewer of the national OFT type cases.

### *Efficiency savings from pooled financial resources*

67. Another benefit of this option would be the efficiency benefits of pooling all consumer enforcement funds in LATSS. A single arrangement for funding will allow streamlined financial arrangements and reduce the joint accountability with OFT.
68. The precise scale of the efficiency savings are unknown, however, we would note that in 2009 the OFT estimated that for every £1 spend on LATSS, the direct consumer savings would be at least £6.<sup>26</sup> There is no direct comparator for OFT, but it has been estimated that the average annual consumer benefits of OFT consumer enforcement work for 2007-10 was £42m per year.<sup>27</sup> Taking into account the uncertainties surrounding the amount OFT currently spends on consumer enforcement above (£12m-13m), this would suggest that their benefit-cost ratio is just over 3:1, though such estimates are bound to have a margin of error.

<sup>25</sup> source: 'Positive Impact 09/10', OFT (2010)

<sup>26</sup> This estimate does only includes direct financial impacts and does not include indirect financial impacts such as reducing anti social behaviour, a reduction in physical harm and deterrence effects

<sup>27</sup> Positive Impact 09/10: Consumer benefits from the OFT's work, July 2009 ([http://www.of.gov.uk/shared\\_of/reports/Evaluating-OFTs-work/of1251.pdf](http://www.of.gov.uk/shared_of/reports/Evaluating-OFTs-work/of1251.pdf))

69. More detailed estimates of the benefits would require assessments of the number, type and success of cases that TS may take but this is unknown presently. As this option did not receive any support in the consultation we believe it was not proportionate to make further estimates.

#### *Summary*

70. This option received no support in the consultation. Importantly, the key existing authorities in consumer enforcement did not support it. If neither of the key players in consumer enforcement believed this option would tackle the enforcement gap then it seems likely that this option would not be a success.
71. In addition Trading Standards did not have appetite to take on cases where consumer enforcement is relevant but competition issues are also present. Enforcement of such cases might deteriorate.
72. Therefore the costs are unlikely to justify this option.

#### **Option 1 (All to LATSS) summary**

All powers and funding for consumer enforcement would be transferred to TS.

#### **Costs:**

- One off: 118 staff redundancy £5.3m cost (Transfer payments)
- Ongoing: none as all funding is transferred to LATSS and OFT staff are replaced with LATSS staff. No additional funding made available.
- Risk that LATSS has no appetite to deal with structural market cases where consumer enforcement may be the best remedy.
- Possible ongoing cost of a coordination group secretariat (£385k per year)

#### **Benefits:**

- Improved leadership/coordination of consumer enforcement under a fully co-ordinated approach (not quantified)
- More efficient use of a larger pool of consumer enforcement funds (not quantified)

#### **NPV**

- -£3.2m

#### **Option 2: All cross boundary enforcement undertaken by the CMA (All cross boundary enforcement to CMA)**

73. Under this option, all responsibilities for enforcing consumer legislation beyond the local level would be transferred to the CMA. All enforcement at the local level would be dealt with (as now) by TS.
74. This would eliminate any uncertainty over the split in roles and responsibilities that currently exists between TS and OFT as everything beyond the local level would be dealt with by the CMA as the national enforcement body. However, the extent to which such an arrangement might address the 'enforcement gap' identified earlier would depend on the resourcing and prioritisation decisions of the CMA.
75. Arguably, part of the reason that the gap currently exists is due to a discord between those cases prioritised for action by TS on the basis of locally-gathered intelligence and the prioritisation criteria of the OFT. If the CMA were to receive responsibility for cross boundary cases it would have to change its prioritisation of enforcement cases if this option were to adequately address the enforcement gap. Such an option would likely entail significant enhancement of CMA resources, including (almost certainly) the establishment of a network of regional offices to handle supra-local cases which form a significant proportion of total consumer enforcement cases. But if the CMA did not change its prioritisation criteria the CMA would simply have a greater set of responsibilities (and likely a larger amount of possible cases), with no increased desire to undertake enforcement action.

#### *Consultation responses*

76. This option received little support. However, some Trading Standards officers have argued for regional trading standards authorities with dedicated funding or a national Trading Standards authority with a regional presence. Some business respondents called for local authorities to have less responsibility for consumer enforcement.

## Costs

### *Costs of establishing a network of sub-national enforcement teams*

77. Under this option, it is likely that a network of sub-national teams would have to be set up by the CMA to facilitate enforcement of cases that cross local authority boundaries – for example, by collating intelligence gathered through LATSS. A suitable comparator to base estimates is the Scambuster and Illegal Money Lending teams funded by BIS, which work in partnership with relevant LATSS, collating intelligence and helping to prepare cases for prosecution.
78. Data on the costs of establishing Scambuster and Illegal Money Lending teams indicate that setting up such a model would amount to £0.07m-0.13m per team. Following such a model would imply the creation of roughly 10 teams, which would suggest one-off costs of £0.7m-1.3m. However, although the type of work undertaken by sub-national consumer enforcement teams would be similar to that undertaken by Scambuster/IML enforcement teams (e.g. collating of intelligence, preparing cross-boundary cases for prosecution), their remit would be much broader than these specific responsibilities. For example, the detriment associated with illegal money lending is estimated to be £370m per year<sup>28</sup>, while the detriment associated with scams is estimated to be £3.5bn per year<sup>29</sup>, in comparison to an overall estimate for detriment associated with cross-boundary enforcement threats of £4.8bn per year<sup>30</sup>.
79. This therefore suggests that £0.7m-1.3m would be a significant underestimate. On the basis of discussion with policy colleagues and Trading Standards, our best judgement is that the increased range and complexity of issues likely to be dealt with by these sub-national teams may be up to 5 times larger, generating one-off costs of **£3.5m-6.5m**. (There would be no additional ongoing costs because the budget available would not increase. Resource would have to transfer from OFT to the sub-national teams).
80. As this option received little support these costs have not been considered in more detail.

### *Costs of securing access to necessary specialist (legal/economic) resources*

81. In relation to the necessary legal and economic expertise required to build and prepare national enforcement cases, this is likely to be already available to some extent within the OFT, but may need to be expanded to deal with the additional responsibilities conferred on them under this option. As above, this has been estimated to amount to up to £2m per year, though again these would be met from within existing budgets for enforcement.

### *Familiarisation costs associated with new landscape for consumers and businesses*

82. As OFT already plays a significant role in enforcement of consumer law the transfer of powers from TS to OFT will not involve any significant familiarisation costs.

## Benefits

83. Under this option, it is likely that there would be improvement relative to the current situation in terms of coordination and consistency of enforcement, as almost all activity would be controlled by a single organisation; the CMA. However, the issue of prioritisation of enforcement cases would remain as the CMA might shift the 'enforcement gap' to smaller cross-boundary 'regional' threats that the national agency may find it harder to pick up. There is a real danger with this option that, although responsibility would be clear, the CMA would be no better than the existing OFT at targetting and taking on regional cases.
84. There should be an efficiency gain from most enforcement activity being operated out of a smaller number of regional centres (not quantified).

## Summary

<sup>28</sup> 'Interim evaluation of the national Illegal Money Lending projects', BIS (2010)

<sup>29</sup> 'Research on impact of mass marketed scams', OFT (2006)

<sup>30</sup> 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

85. This option received little consultation support. While responsibility for cross boundary cases would be clearly that of the CMA and no longer split there is the danger that the enforcement gap would not be closed (if the CMA did not prioritise these cases) or the gap could be shifted to smaller regional cases that the CMA might not identify or prioritise.
86. The significant costs of CMA establishing regional teams means this cost is unlikely to be cost effective.

**Option 2 (All cross boundary enforcement to CMA) summary**

All powers and funding for consumer enforcement would be transferred to LATSS.

**Costs:**

- One off: £3.5m-£6.5m from set up cost of regional enforcement teams
- Ongoing: none as no additional funding would be made available

**Benefits:**

- Some improvement in coordination and consistency of enforcement (not quantified)

**NPV**

- £-6.28m. This is negative as regional teams are required and no benefits are quantified. As this option did not receive many favourable consultation responses it is not the preferred option.

**Option 3: NEW OPTION: Hybrid - Rebalancing of responsibilities between OFT and LATSS**

87. As concerns were raised by various important stakeholders in the consultation about each of the options a new option is proposed that takes these concerns into account. To harness the benefits of a Trading Standards Policy Board (as proposed in option a) without losing the expertise of the CMA enforcement team a hybrid model based on Option a (establish a TSPB and transfer some enforcement duties to TS) is proposed.
88. The hybrid model would still create a TSPB with a greater role for Trading Standards. But it would leave one of the national centres of expertise (for enforcing law on unfair contract terms) within the CMA and give CMA responsibility for international consumer enforcement liaison. CMA would be accountable to BIS and HMT for these activities through the new proposed arrangements for funding CMA (not in the scope of this IA). As in option a, CMA would also be able to use consumer enforcement powers to address certain structural market issues.
89. Additionally, a form of the Joint Enforcement Board, (what might be termed a “Strategic Intelligence and Enforcement Partnership” or SIEP) would be created, made up out of representatives of the TSPB along with representatives from the CMA and representatives from Scotland and Northern Ireland and from other consumer bodies.

**Trading Standards Policy Board**

90. The main benefits the Government wishes to see from TSPB would be obtained by the following:
- Better use of existing data and collection of some new data. This would use existing budgets.
  - Better accountability and responsibility for enforcement. Better prioritisation of cases. These cases would be taken on by existing TS teams (although they may be enhanced via the transfer of some existing OFT enforcement budget) or the CMA using existing resources.
91. It also mitigates against the risks of the TSPB model raised by OFT:

- costs of transition (as it involves fewer OFT possible redundancies)
  - loss of current expertise
  - loss of coordination between enforcement cases against individual “rogue” traders on the one hand and to resolve structural market problems, on the other,
92. This “hybrid” model would still much more clearly delineate the responsibilities of Trading Standards and the CMA with clearer accountability for their respective functions, but it would also set out a mechanism for resolving cases which crossed the remaining boundaries.
93. Under the hybrid model the TSPB would still be made up of elected Chief Trading Standards Officers representing each English region and Wales, with an appointed chair and secretariat. The Chief Trading Standards Officers would transfer time from existing case prioritisation activity. The chair and secretariat would be an additional cost (estimate below).
94. The TSPB would be responsible for better coordination of existing enforcement data, improvement of existing enforcement monitoring data, better coordination and prioritisation of intelligence analysis and related cases, allocation of consumer enforcement funds (currently allocated to OFT) to take on enforcement gap cases.
95. All of the above work would be funded from existing budgets (including the transfer of existing OFT budget to the TSPB) hence none of the activity is additional (with the exception of the TSPB chair and secretariat)<sup>31</sup>.

### ***Strategic Intelligence Enforcement Partnership (SIEP)***

96. The Strategic Intelligence Enforcement Partnership would consist of regular meetings of existing senior OFT/CMA and TS staff. They would determine an agreed workplan for cases of interest both to the CMA and TSPB. TSPB would present its enforcement decisions and workplans at each meeting and CMA would set out any structural market cases or other enforcement cases it is planning to bring, thus enabling cross-over points to be identified and resolved. The SIEP would be tasked to guarantee no gaps in enforcement and also no duplication of effort. The Partnership would also set the direction for international liaison, which would be performed by the CMA, bringing in experts in particular enforcement areas from Trading Standards, if necessary.
97. The CMA would take cases where consumer enforcement can be used to address structural or competition problems in a market and any large, complex or precedent setting cases involving a breach of unfair contract terms legislation.
98. The SIEP would also offer a vehicle for CMA to present to TSPB the results of its market studies, where these concluded that enforcement action was required in an area of high consumer detriment and that such action naturally fell to Trading Standards. SEP would agree an enforcement plan to take forward any recommendations arising. The same process would be followed in respect of requests for enforcement activity received from overseas.

### **Costs**

99. The significant costs are
- Chair and secretariat of the TSPB
  - Redundancy of OFT staff

### ***Chair and secretariat of the TSPB***

100. From discussions between TS and BIS we estimate the board would require the staff in the table. The cost of the TSPB board chair and secretariat is estimated at £385k per year.

<b>TSPB</b>	<b>chair</b>	<b>G7 secretariat</b>	<b>HEO secretariat</b>	

<sup>31</sup> In Scotland, a Scottish Reaction Team has been proposed to take on all cross-boundary issues. The work of the Scottish Reaction Team would be aligned to, but separate from, the TSPB, due to the different priorities and legal system in Scotland. The Scottish Reaction Team would be controlled by Society of Chief Officers of Trading Standards in Scotland (SCOTSS) and would be funded by approximately 10% of the money made available from BIS and the OFT to Trading Standards, in line with the Barnett formula. Both TSPB and the Scottish Reaction team would be fully accountable to BIS for how they used their budget.

1 at £83k	2 at £48k	4 at £33k	Total per annum
102,920	119,040	163,680	385,640

### *Transfer of database staff<sup>32</sup>*

101. Analysis of OFT staff data suggests that 2 to 3 staff manage an enforcement database. We expect these 3 staff to transfer. Case studies of the transfer of staff in the Principal Civil Service Pension Scheme to the private sector suggest that the pension transfer cost could be as much as £80k one off top up and an additional 28.7 per cent employer contribution<sup>33</sup>.
102. Three staff \*£80k = £240k one off cost.
103. Additional employer contributions would be average salary of £40k\*0.287\*3=£34k per year.

### *Redundancy or transfer of enforcement staff*

104. In this option some consumer enforcement budget would be transferred from CMA to the board to undertake enforcement work in the enforcement gap. We assume that this would be about 30 per cent of the OFT enforcement budget or 30 per cent of staff.
105. Analysis of OFT staff data indicates that 118 staff (including a proportional allocation of OFT back office) work on consumer enforcement. In this option we estimate that one third or 39 of these staff would be at risk of redundancy or transfer.
106. Analysis of OFT length of service and salary data suggests that the average redundancy payment would be £44.6k. For 39 staff this would amount to a one off £1.74m redundancy cost<sup>34</sup>.
107. If staff chose to transfer we estimate the cost would be
- 39\*£80k = £3.1m one off pension top up and
  - additional employer contributions would be average salary of £40k\*0.287\*39 = £450k per year.
108. These redundancy and transfer estimates are the maximum likely cost because it is likely some staff will be retained by OFT/CMA as vacancies become available through natural attrition in areas CMA will retain and OFT/CMA has scope has to move staff internally. We have not surveyed staff to get more detail as the issue is sensitive and the changes are some time in the future. As mentioned these costs are transfer payments.
109. If some OFT staff chose to transfer to Trading Standards there would be some logistical costs. OFT estimated the logistical cost of moving staff, equipment and furniture at £500 per head. In addition some additional IT equipment might be required. These cost would be a tiny proportion of the cost to BIS (redundancies, pension transfers, Consumer Direct set up cost) and has not been estimated in further detail as attention has focused on the most significant costs.

## **Benefits**

### *Improved leadership and coordination of TS enforcement*

110. One of the main criticisms of the UK consumer enforcement system by businesses and independent commentators in the past has been that it is inconsistent and the efforts are uncoordinated. Strengthening central allocation of casework within TS and establishing clear responsibility for addressing all threats in an integrated way should go a long way to addressing these complaints. Furthermore, some of the funding transferred to TS is expected to be used to establish a mechanism to underwrite the risks for individual enforcement authorities inherent in bringing larger-scale, national cases. Access to such support would depend on peer review, thus

<sup>32</sup> Both redundancy and pension transfer costs are transfers and not an economic cost to society.

<sup>33</sup> Examples are the transfer of some RDA staff to a consultancy and transfer of staff to Ofcom when it was created from a number of government bodies. These examples allow us to assume that a one off £80k top up of each pension would be necessary for all staff with the Principal Civil Service Pension (PSCP) (almost all of the relevant staff). In addition, using the example of a Prudential Insurance scheme used in these circumstances, we assume that employer pension contributions would increase by 28.7 percentage points for all staff (not just PCSP as the contributions rates are the same).

<sup>34</sup> As this involves a transfer of budget there are no ongoing savings associated with the OFT redundancies because the funds would transfer to TS which would spend them on equivalent staff.



introducing an element of quality control and collectivisation of decision-making into TS enforcement work, which has been limited in the past.

- 111.** In this option a much stronger national leadership and co-ordination function should develop within TS, which should help to address the 'enforcement gap' identified earlier. A priori, it is difficult to estimate what the impact on the level and scale of national enforcement cases might be under this option. However, we note that OFT has estimated that the average annual consumer benefits associated with its national enforcement activity for the period 2007-2010 is £42m.<sup>35</sup> This would suggest that even a small increase in national enforcement activity could yield significant consumer benefits.
- 112.** The TSPB model should also deliver much stronger regional coordination within each region allowing individual LATSS to start to specialise and share services with neighbouring authorities. This has the potential to deliver substantial efficiency savings over time and, by making enforcement more expert, professional and targeted, to reduce enforcement burdens on honest businesses. This substantial potential benefit it, however, impossible to quantify with any precision at this stage.

#### *Better co-ordination between TS and OFT/CMA*

- 113.** In this option the CMA would retain expertise in certain areas, in particular unfair contract terms and international liaison. However, it would apply this expertise in a way that ensured maximum benefit for the consumer enforcement regime as a whole.
- 114.** Co-ordination between the CMA and Trading Standards on consumer protection issues would be through a Strategic Enforcement and Intelligence Partnership. This partnership will be made up of existing representatives from the CMA, TSPB and the Scottish Reaction Team, as well as Citizens Advice and Citizens Advice Scotland for intelligence sharing. The partnership will be achieved using each body's existing resources and will not be additional.

#### *Buy in from CMA and TS*

- 115.** Relevant stakeholders have been consulted and this option has buy in from the two key bodies responsible for consumer enforcement; the OFT and TS. With the support of these two bodies this option is much more likely to be successful at reducing the enforcement gap than the others. It is the only option that has support from *both* OFT and TS.

#### *Summary*

- 116.** This option has buy in from OFT and TS and is therefore most likely to deliver the expected benefits. It is the lowest cost of the options with the exception of the JEB option which was not expected to deliver the intended benefits.

### ***Option 3 Hybrid (Rebalancing of responsibilities between OFT and LATSS)***

#### **Costs:**

- One off: OFT Staff Redundancy (£1.74m), transfer of 3 staff pension top up (£240k).
- Ongoing: Costs of TSPB and SEP secretariat and Chair (£385k per year), cost of additional employer contribution for 3 transfer staff (£34k per year)

#### **Benefits:**

- Improved leadership and co-ordination of LATSS enforcement
- Better co-ordination between LATSS and OFT/CMA

#### **NPV**

- -£3.2m. While this option involves significant transfer costs it has a great chance of success as it combines both CMA and Trading Standards expertise. It carries the least risk as it has the buy-in of both OFT and LATSS.

<sup>35</sup> source: 'Positive Impact 09/10', OFT (2010)

# Risks

## Option 1 (All functions to TS)

117. Under this option, there is a risk that the transfer of additional funding for consumer enforcement to local councils could result in existing LATSS being displaced, which may result in local councils imposing stricter cuts than otherwise would have been the case. In extreme cases, this displacement may be 100% – i.e. there may be no overall increase in funding available for LATSS at a local level. However, this risk is significantly mitigated by ring-fencing this additional funding for the purpose of undertaking prosecution of national enforcement cases.
118. As outlined above, an additional risk under this approach is that individual local authorities may not be able to take on more complex cases, in particular test cases where the outcome may be unclear. In such cases, those authorities would be required to bear the burden of appeals (potentially up to the Supreme Court or European Court of Justice) or face costs if they lose and these factors may represent more risk than some councils are prepared to take on. Some of these risks can be mitigated through national funding, but others may require some kind of national mechanism for risk-sharing. To address this, Government is looking at setting up an indemnity fund or a scheme for pooling legal risk, or a combination of the two funded by Govt and not involving legislation. Ultimately, the purpose would be to purchase or provide insurance against the potential risks of long, drawn-out cases or of losing. Some element of risk management – both directly by the teams responsible for the case and at national level – would be necessary. The Government is still working with relevant stakeholders to develop the best model for this risk-sharing mechanism but recognises it as a priority.
119. If co-ordination between LATSS fails, then there is a risk that the UK may be unable to fulfil requirements under European and other law where cases must be undertaken. Such failure is however, unlikely as long as central Government funding for coordination is ring-fenced and adequate.
120. There is also potential for significant detriment occurring due to the inability of any competition authorities (or the single CMA, if the proposed merger goes ahead) to exercise any powers related to consumer issues. Given the potential synergies between the enforcement of consumer and competition law outlined above, the Government believes that competition authorities should retain powers to enforce consumer law, where it is the most appropriate remedy to a competition problem in a market.

## Option 2 (All cross boundary enforcement to TS)

121. As set out above, there is a significant funding risk associated with this option. As a minimum, this option would necessitate establishing a new network of sub-national enforcement teams, which would be impossible to achieve within existing OFT budgets. A potential alternative would be to transfer some funds currently given to local authorities to a national agency. In practice, the complexities of local government finance and the difficulty of establishing precisely how much local authorities currently spend on enforcement of fair trading laws against cross-boundary threats will make this difficult to deliver. It may also be argued that local authorities have little obligation to address cross-boundary threats at present so no resource can be transferred. However, even if funding for a national enforcement agency can be secured, the impact on the residual LATSS would be considerable, with local authorities likely to cut funding further.
122. There may be efficiency losses from the loss of integration of fair trading resources with those deployed to tackle other Trading Standards threats (animal health, food labelling, product safety, intellectual property abuse, etc). There is also the additional risk that, if a new national consumer enforcement body is established, during the transition period compliance with consumer law could deteriorate and the 'enforcement gap' identified above could potentially widen significantly.

## Option 3 (NEW OPTION: Rebalancing of responsibilities between OFT and LATSS)

123. This option carries the least risk, as it would have the buy in of LATSS and OFT/CMA. Some of the issues and risks from Options a and b around the abilities of LATSS to being cases may still

apply, but the proposal for a Government funded indemnity fund, and TSPB leadership and accountability should mitigate against this.

124. A final risk is that if the casework of the OFT/CMA expands beyond structural market cases, it could siphon off resource from the CMA's proposed competition objective. The model proposed should not do this as the only area where CMA might bring cases which are not about structural market problems would be under unfair contract terms legislation and any such cases would be small in number and designed to set precedents which would be relevant for resolving other structural market cases (the majority in this area).

## Summary

125. BIS has identified that the existing arrangements for consumer enforcement, split between OFT and Local Trading Standards has left an enforcement gap of regional cases. OFT tends to prioritise certain types of national cases whereas Trading Standards sometimes prioritise local cases leaving an 'enforcement gap' for cases that cross local and regional boundaries.
126. Some recent reports have identified this complexity and split responsibility for enforcement as key weaknesses.
- A report in 2008 by the University of East Anglia to benchmark the UK's consumer empowerment regime found that the UK regime fared well overall but identified uneven enforcement as a key weakness, alongside overly-complex legislation<sup>36</sup>.
  - The 2011 NAO report 'Protecting Consumers' reviewed consumer protection and found that much consumer detriment occurs at the national or regional level but that incentives are weighted towards tackling local issues.
  - The 2011 report of the Public Accounts Committee made recommendations to the Government regarding accountability and the operation of the system.
127. There can be strong cost and risk disincentives, especially for small LATSS, to taking on large complex cases – for example, a judgement in a recent case resulted in an individual Trading Standards Service being ordered to pay £4m in legal costs. The level of resource required to investigate and prosecute cases involving cross-boundary or national issues can also vary considerably – the NAO found that costs could vary from £30,000 (for a more straightforward cross-boundary case) to over £200,000 (involving itinerant traders and recurring instances of doorstep crime). Under current funding arrangements, this means that around half of LATSS would need to commit over 40% of their annual staff budget to resourcing such a case.<sup>37</sup>
128. Following the consultation responses that highlighted the weaknesses of the proposed options a new option has been proposed; option 3 the hybrid option. This option is accepted by key stakeholders including the OFT and Trading Standards. It is the only option that was accepted by all key stakeholders. It involves significant costs but all options do because it is assumed that the transfer of budget necessarily involves some redundancies.
129. This is designed to ensure that the enforcement gap is addressed by creating a new leadership and co-ordination function for Chief Trading Standards Officers, based (in England and Wales) on a new Trading Standards Policy Board (TSPB) and an enhanced role for regional Trading Standards teams and/or particular local authorities in leading responses to threats at the national and regional levels.<sup>38</sup> A proportion of the current OFT enforcement budget and BIS funding for national enforcement programmes would be combined and made available to LATSS through this mechanism. Additionally, a Strategic Intelligence and Enforcement Partnership would co-ordinate the functions retained by the OFT and those of Trading Standards
130. This model would address the inconsistency of consumer enforcement in the UK, which has been identified in independent studies as an area of weakness.

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36 BERR (2008). Benchmarking the performance of the UK framework supporting consumer empowerment through comparison against relevant international comparator countries (<http://www.bis.gov.uk/files/file50027.pdf>)

37 'Protecting consumers – the system for enforcing consumer law', National Audit Office (forthcoming)

38 In Scotland, early indications are that similar governance arrangements involving Convention of Scottish Local Authorities and Society of Chief Officers of Trading Standards in Scotland may be appropriate

## One in one out

131. The proposed option clarifies the balance of responsibility for consumer enforcement between OFT and Trading Standards and improves coordination between TS and OFT. The nature and scope of regulation is not changing. There is no direct impact on business. Therefore it is out of scope of OIOO.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b></p> <p>This impact assessment includes a commitment to review the proposed changes 3 years after implementation (these changes are expected to be fully implemented by 2018) – the review is expected to be undertaken by 2020.</p>
<p><b>Review objective:</b></p> <p>The aim of the review would be to assess whenever or not the changes to the consumer landscape have achieved the objectives set out in this impact assessment – i.e. strengthen the front line of consumer empowerment and protection, reduce the complexity of consumer landscape and for consumer services to be delivered more cost-effectively.</p>
<p><b>Review approach and rationale:</b></p> <p>The review would evaluate the effectiveness of the changes within this impact assessment. The review will incorporate stakeholders' views that will include consumers, business groups, LATSS, and Citizens Advice. Government spending on consumer services will be monitored.</p>
<p><b>Baseline:</b></p> <p>The OFT study on consumer detriment in the UK shows that overall detriment in 2008 was £6.6bn. This will be monitored in the future for the purposes of comparison. Survey data shows the awareness among consumers of their rights. Also, the current level of expenditure on consumer services by the government is known, and can be used a future benchmark.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Increased volume of consumer contact, consumers are more empowered and the level of consumer detriment decreases, likely to be as a result of increased awareness of their rights and confidence in exercising them. In addition, consumer services are delivered at a lower cost to government.</p>
<p><b>Monitoring information arrangements:</b></p> <p>Feedback from businesses, consumers groups, LATSS and Citizens Advice will be achieved through regular engagement. The transition costs will be recorded during the implementation stage and Government will monitor the ongoing costs of the new organisations via annual reports and management information. More general information about the conditions facing consumers can be collected through surveys and the European Commission's Consumer Market Scoreboard, currently published bi-annually.</p>
<p><b>Reasons for not planning a review:</b></p> <p>N/A</p>

## Annex 2: Specific impact tests

### Equality Impact Test

#### *Consumer advocacy/consumer information, advice & education*

132. Changes to the consumer landscape will result in some bodies being abolished and other organisations being redesigned to incorporate new functions and powers. A reallocation of resources and powers towards Citizens Advice, particularly in relation to consumer advocacy and consumer information, advice and education, could have a positive impact on various protected groups.

Characteristics	UK population (%)	Citizens Bureau clients (%) <sup>1</sup>
Female	51 <sup>2</sup>	55
Disabled	5 <sup>3</sup>	25
Age (65+)	17 <sup>4</sup>	10
Single parents	10 <sup>5</sup>	16
Ethnicity	11 <sup>6</sup>	15

133. Recent data<sup>7</sup> shows that certain groups are over-represented among Citizens Advice Bureaux clients, such as females, disabled households, single parents and clients from an ethnic minority background. Therefore, these clients may be positively affected by the focus of resources on Citizens Advice service. However, older persons (defined here as aged 65 and over) are under-represented among CAB clients and may therefore be slightly adversely affected. However, as Citizens Advice is predominantly a face-to-face advice service, this may favour older households that are less likely to use the internet.<sup>8</sup>

134. In addition, the current statutory obligation on Consumer Focus to investigate complaints made by vulnerable consumers in the electricity, gas and postal services sectors (currently fulfilled by the Extra Help Unit within Consumer Focus) will be transferred to Citizens Advice, so this feature of the current consumer landscape will be preserved.

#### *Consumer code approval scheme*

135. As the code will be administered by the TSI in a sufficiently similar fashion to the OFT we do not believe that there will be a significant equality impacts.

#### *Consumer enforcement*

136. In terms of the effect on protected groups associated with moving some OFT functions (and associated funding) to the Trading Standards network, there should not be any adverse impacts as we would anticipate an increase in enforcement cases benefiting all consumers. There should also be a decrease in the 'enforcement gap' identified earlier. This would mean that the number of regional enforcement cases being undertaken should increase, relative to the current situation. While there is no data on the types of consumer affected by the enforcement gap it is likely that those consumers are relatively vulnerable as cases would include small but cross local authority firms that might target vulnerable consumers by, for example, door step selling.

<sup>1</sup> Source: Advice Trends

<sup>2</sup> 2011 data; source: Social Trends No. 40 (ONS)

<sup>3</sup> Based on claimants of Disability Living Allowance in 2008/09; source: Social Trends No. 40 (ONS)

<sup>4</sup> 2011 data; source: Social Trends No. 40 (ONS)

<sup>5</sup> 2009 data; source: Social Trends No. 40 (ONS)

<sup>6</sup> [http://www.statistics.gov.uk/downloads/theme\\_labour/lalm-statistical-indicators-jan11.pdf](http://www.statistics.gov.uk/downloads/theme_labour/lalm-statistical-indicators-jan11.pdf)

<sup>7</sup> Advice Trends, July-Sept 2010 ([http://www.citizensadvice.org.uk/advice\\_trends\\_2010-11\\_q2.pdf](http://www.citizensadvice.org.uk/advice_trends_2010-11_q2.pdf))

<sup>8</sup> 60% of those aged 65 and over have never accessed the internet (source: <http://www.statistics.gov.uk/cci/nugget.asp?id=8>)

## **Competition Test**

137. The proposals within this impact assessment will not (directly or indirectly) limit the range of suppliers or reduce their ability to compete. Proposed reforms to the enforcement landscape could be pro-competitive, by increasing resources allocated to removing rogue firms, which should improve consumer confidence in markets and reward fair-dealing businesses.

## **Small Firms Test**

138. The changes proposed within this impact assessment will affect all law-abiding firms equally. Therefore, we do not believe that there will be a disproportionate impact on smaller firms. Improved co-ordination of consumer enforcement and the other proposed changes to consumer landscape should empower consumers, which will result in markets operating more efficiently.

## **Other Impact Tests**

139. After initial screening, we do not believe that there will be any impacts in the areas of greenhouse gas, wider environmental issues, health and well being, human rights, rural proofing and sustainable development.

## ANNEX 3

### Options a and b replaced with option 3 (Hybrid)

140. Options a and b both involved some degree of transfer of consumer enforcement responsibility from OFT to TS. They were raised in the consultation and discussed at length with stakeholders. Using this extensive feedback an improved option (Option 3: Hybrid) was proposed which stakeholders support.

### **Option a: Transfer the majority of OFT's enforcement functions to LATSS, with some consumer enforcement powers retained by the CMA. A Trading Standards Policy Board (TSPB) would be established to deliver national control and leadership from within TS (Most functions to TS, establish TSPB)**

#### *Consultation responses*

141. This option was strongly supported by most Trading Standards authorities, and local councils that responded. Qualified support came from some consumer associations, individual businesses and other enforcers. These bodies highlighted that the new system must be able to take effective action and must be able to ensure consistency across the wider enforcement framework (some scepticism of Trading Standards' performance so far and concern over their commitment to the Hampton agenda which is seen as necessary). Some business associations (including the CBI), some consumer associations and all international stakeholders have highlighted the need to retain a single national body undertaking some aspects of general (as opposed to structural) enforcement. The OFT highlighted a number of detailed concerns over the TSPB model, in particular the relationship between cases (in particular relating to Unfair Contract Terms) establishing novel legal precedents and those inherent in structural market issues and the potential for duplication or loss of expertise if the two are separated.

#### *Costs*

142. This option was relatively costly as it was estimated that the transfer of the OFT's enforcement budget put two thirds of the 118 OFT consumer enforcement jobs at risk (estimated at a one off cost of £3.5m).

#### *Summary*

143. This option received much support from Trading Standards but OFT had many concerns. It has the advantage of making TS clearly responsible for regional cases and tackling the enforcement gap. However, given the risk of OFT redundancies associated with the transfer of budget to TS, it is a costly option. It is more costly than the preferred option which is expected to deliver similar benefits but at less cost (as it involves fewer redundancies).



### **Option 3** Trading Standards Policy Board (TSPB)

Transfer most consumer functions to LATSS and establish a Trading Standards Policy Board (TSPB) to deliver national control and leadership from within TS.

#### **Costs:**

- One off: Redundancy of 78 staff £3.5m redundancy cost
- Ongoing: £375k cost of TSPB secretariat and chair

#### **Benefits:**

- Improved leadership/coordination of consumer enforcement (not quantified)
- More efficient use of a larger pool of consumer enforcement funds (not quantified)

#### **NPV**

- -£6.5m. This is negative as 78 staff are made redundant, a board is required and no benefits are quantified. This received support from Trading Standards but not OFT. It is not the preferred option.

### **Option b: Establish a Joint Enforcement Board (JEB) made up of regional TS chiefs and OFT/CMA representatives to set priorities and coordinate TSS and CMA consumer enforcement (No change in functions, establish JEB)...**

144. This option simply involved the establishment of a Joint Enforcement Board established to coordinate work between OFT/CMA and LATSS.
145. No regulatory change would occur. No staff would be transferred or made redundant. Enforcement staff at CMA and to a lesser extent in local TS or regional teams would carry out JEB priorities.

#### *Consultation responses*

146. Trading Standards were sceptical about whether the board would succeed at directing local Trading Standards to address the enforcement gap. Concerns included:
- Cases would be allocated on an ad hoc basis and therefore it would be difficult for LATSS authorities or regional teams to maintain the required permanent capacity of staffing levels.
  - There would be no change in responsibilities, which would remain overlapping across all enforcement areas and local councils may therefore still be unwilling to support cases they believe should be dealt with by the CMA.
  - It is difficult for LATSS to set priorities and take tough decisions when the option always exists of passing the case to the national enforcer – accountability would remain a problem.

#### *Costs*

147. The costs were limited to the establishment of the JEB estimated at around £275k per year.

#### *Summary*

**Option 4 Establish a Joint Enforcement Board (JEB)**

The JEB would coordinate CMA and LATSS consumer enforcement

**Costs:**

- One off: None
- Ongoing: £200k cost of JEB secretariat and chair

**Benefits:**

- Given the scepticism from consultees this option is not explored in further detail.

**NPV**

- -£1.66m. This comprises the ongoing additional costs of the board.

148. This option is the lowest cost as it involves simply establishing a joint board between CMA and TS. However consultation responses were very sceptical about the extent to which a JEB would be able to improve coordination between CMA and Trading Standards and be able to direct local TS to prioritise specific cases. Therefore this option is not expected to be successful at tackling the enforcement gap.

<b>Title:</b> <b>Consumer Landscape Review: Transfer of consumer advocacy responsibilities</b> IA No: BIS0268 Lead department or agency: BIS Other departments or agencies: NA	Impact Assessment (IA)
	Date: 05/03/2012
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries: Matt Bowhill (020 7215 6445)
<b>Summary: Intervention and Options</b>	RPC: RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£m +4	£m 0	£m 0	Yes   IN

**What is the problem under consideration? Why is government intervention necessary?**

Publicly funded consumer advocacy is carried out by a range of organisations including Consumer Focus, Citizens Advice, Citizens Advice Scotland and to some degree by OFT. There is significant overlap between these bodies and therefore scope for efficiency improvements in the use of public funds. There is also scope to improve the use of existing consumer detriment evidence. The Government believes that consumer advocacy could be significantly improved if public funds were better focused on one body and if existing data on consumer complaints could be harnessed by that body to improve advocacy evidence.

**What are the policy objectives and the intended effects?**

This IA is one of 4 separate IAs that cover the legislative changes involved in the consumer landscape reforms.

The intended aims of this reform are to improve the impact of consumer advocacy, reduce the complexity of the consumer landscape, increase cost efficiency and harness consumer detriment evidence. A more powerful and authoritative consumer advocate will be able to better improve markets and empower consumers. Empowered consumers and effective markets are necessary to facilitate competition and support the associated benefits of innovation, productivity and economic growth.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

In considering the potential options for reform, three options were selected for substantive analysis:

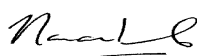
- Option 1: Transfer most powers and functions from Consumer Focus to Citizens Advice;
- Option 2: Transfer Consumer Focus general advocacy functions to Citizens Advice, with sectoral advocacy functions remaining with Consumer Focus.
- Option 3: Transfer general advocacy to CitA first with sectoral transferring after 5 years (phased)

Option 3 is preferred, as it would strengthen the link of consumer advocacy to local issues and focus resources and responsibilities on one well known, effective consumer advocacy body. The phased approach helps CitA manage the transfer and helps BIS manage costs over time.

Three further options were considered and discarded.

<b>Will the policy be reviewed?</b> It will be reviewed. If applicable, set review date: 01/2018						
Does implementation go beyond minimum EU requirements?			N/A			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro No</b>	<b>&lt; 20 No</b>	<b>Small No</b>	<b>Medium No</b>	<b>Large No</b>
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>		<b>Non-traded:</b>	
			N/A		N/A	

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*



Signed by the responsible SELECT SIGNATORY:

Date: 05/03/12

## Summary: Analysis & Evidence

Policy Option 3

Description: Transfer general advocacy to CitA first with sectoral transferring after 5 years (phased)

### FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)			
			Low: Optional	High: +4.8	Best Estimate: +4.8	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low	Optional	1	Optional		<b>Optional</b>	
High	0.17		0	<b>0.165</b>		
Best Estimate	0.17		0	<b>0.165</b>		
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
One-off transition costs (£4m redundancy and pension top up) and ongoing costs (£990k p.a. after 5 years additional employer pension contributions) of staff transfer incurred by government associated with the transfer of Consumer Focus functions and powers to Citizens Advice. Transfer costs and not economic costs. Logistical costs of transferring staff to Citizens Advice (£1000 per head and 6 month project team £70k).						
<b>Other key non-monetised costs by 'main affected groups'</b>						
N/A						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low	Optional	1	Optional		<b>Optional</b>	
High	0		0.6	<b>4.8</b>		
Best Estimate	0		0.6	<b>4.8</b>		
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
Back and top of office staff savings (£360k per year for the first 5 years and £757k for the remaining years).						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
General advocacy will benefit from locally-gathered information from CABs on consumer concerns combined with direct access to data from Consumer Direct; specific advocacy in the energy and postal services sectors will benefit from the additional channel of face-to-face advice service. Consumer Focus will be abolished which will enable advocacy resource to be focused on Citizens Advice, reducing the complexity of the landscape and promoting the message that for all non-financial information and advice consumers should go to Citizens Advice. With all consumer data and advocacy expertise focused on Citizens Advice it will be a more powerful and authoritative consumer advocate.						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	3.5
Pension transfer cost and additional employer pension contributions.						

### BUSINESS ASSESSMENT (Option 2)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: 0	Benefits: 0	Net: 0	Yes	IN

## Evidence Base (for summary sheets)

### Introduction

#### The consumer landscape reforms

149. This IA is one of four separate IAs covering the proposed legislative changes involved in the Government's Consumer Landscape reforms.
150. These reforms should improve consumer protection and help and empower consumers. This is critical to ensure that businesses and government understand and respond to their needs. In competition for custom firms will innovate and reduce costs thereby increasing productivity and stimulating economic growth.
151. Consumers also need to know who to turn to for advice, information and redress if things go wrong.
152. We are therefore simplifying the landscape to make Citizens Advice THE place to turn to for information and advice about consumer matters (*Information, education and advice IA*). They will be the publicly funded voice of the consumer, championing their needs and ensuring that consumers can make the right choices.
153. We also recognise that consumer interests need to be represented in a number of regulated industries (*Advocacy IA*). We see the benefits of bringing together existing Consumer Focus advocacy together with the information gathered through local Citizens Advice Bureaux and advice lines. This transition will be managed by the creation of an interim small, technical Regulated Industries Unit who will represent the views of other regulated industries until it is transferred to Citizens Advice.
154. Alongside ensuring that consumers are represented, we want to strengthen the protection for consumers from rogue businesses (*Enforcement IA*). Building on Local Trading Standards work at the local level we will provide funding and mechanisms to strengthen cross-boundary working and establish a Trading Standards Policy Board that will bring together regionally elected representatives from Trading Standards to tackle national and super-regional enforcement cases.
155. 7. To improve leadership across the consumer landscape, share intelligence and prioritise we will establish a Strategic Enforcement and Intelligence Board with membership from Trading Standards, Competition and Markets Authority (CMA), Regulated Industries Unit, Citizens Advice and Which?
156. Supporting fair dealing businesses we will transfer the OFT's Consumer Codes work to Trading Standards Institute so the CMA can focus on competition (*Codes IA*).

#### Advocacy IA

157. In reviewing the consumer landscape, BIS has found evidence of overlap and duplication between the various consumer advocacy bodies. There is significant potential to simplify and rationalise the consumer landscape to focus resources and responsibility on one advocacy body. Citizens Advice, with its long standing consumer expertise and access to unrivalled data on consumer concerns via its bureaux, provides the obvious focus to improve and rationalise consumer advocacy.
158. The Government's preferred option is to transfer most of the powers and functions of Consumer Focus to Citizens Advice (CitA), i.e. Option 1. Citizens Advice's long-standing expertise in national policy and daily interaction with citizens, especially the more vulnerable, means that there is an opportunity to strengthen the connection between the concerns of consumers in their local communities and the national policy and advocacy functions.
159. In addition to strengthening the frontline of consumer empowerment and protection, this reform should also help to contribute to the objective of reducing complexity in the consumer landscape, and improving the efficiency of government expenditure through, for example, the elimination of overheads (top of office and back office) associated with two organisations rather than one. To summarise
  - Citizens Advice has high recognition with consumers, especially the vulnerable, and can harness its information on consumer issues collected via its many bureaux for advocacy work

- A single, authoritative consumer advocate with access to wide ranging evidence on consumer concerns, will be better able to make an impact on markets and other relevant organisations
- A single consumer advocate will simplify the consumer landscape
- A single advocate will improve efficiency by eliminating overheads and duplication between Consumer Focus and Citizens Advice

### **Consultation**

160. Consultation views were largely supportive of the transfer of the general advocacy role from Consumer Focus to Citizens Advice. There were some concerns about the ability of Citizens Advice to take on sectoral advocacy at the same time. The final proposal was altered to delay transfer of sectoral advocacy to allow Citizens Advice time to absorb general advocacy first.

### **Legislative change**

161. Transfer of responsibility for consumer advocacy would involve the transfer of powers and functions from Consumer Focus to Citizens Advice. These would be simple transfers of powers enabled through the Public Bodies Act and would not involve additional or new powers or legislation.

## **Background**

162. Advocacy is both the representation of consumers' interests and the defence of their rights. It is currently carried out by a range of organisations many of which receive some public funding. Advocacy activities include:

- Research and analysis on the way that particular markets serve consumers and, where concerns are found, representation of the results.
- Ensuring the views of consumers' is considered in policy formation; and
- Investigation of particular cases, either where there appears to be an issue of general interest, or where an individual is unable to achieve redress through established mechanisms.

Advocacy is an important element of consumer empowerment. Consumers must be confident that their concerns are being heard and communicated in ways that are likely to effect change.

### **Sectoral advocacy**

163. A distinction is made within this IA between general advocacy functions, which can either apply to non-individually regulated consumer markets or across all consumer-facing markets, and sectoral advocacy functions, which relate to individual regulated sectors (such as in energy, post, water etc) and have a specific role within the regulatory regimes for these sectors.

### **General advocacy**

164. Consumer advocacy bodies have a vital role to play in competitive markets where features of the market may mean that the market may not be working well for consumers. Advocacy can help to improve business practices and encourage customers to compare prices in order to make informed choices. The need for effective consumer representation is equally strong, if not stronger, in those markets in which customers do not have a choice of supplier or where competition is restricted. Examples of successful consumer advocacy are discussed below in connection with each advocate.

165. Public funding for general consumer advocacy is currently focused on two organisations – Consumer Focus and the Citizens Advice service (CitA). Given its consumer and competition role some activity by OFT can also be characterised as consumer advocacy.

166. **Consumer Focus** is a statutory consumer advocacy body which operates across the whole of the economy (general advocacy) with specific responsibility for the energy (gas and electricity) and postal sectors (sectoral advocacy). It undertakes and publishes research about consumer matters, which can help Government and sectoral regulators formulate policy.<sup>1</sup> It has the power to

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<sup>1</sup> In 2009-10, Consumer Focus conducted approximately 60 research and engagement projects using a mixture of quantitative, qualitative and deliberative research techniques, which covered topics ranging from public services to mobile phones.

investigate cases of complaints which are of general interest to consumers as a whole and, in the energy sector for example, the power to appeal certain decisions made by the regulator on behalf of consumers. It also provides advice to consumers and micro-businesses. It has an Extra Help Unit which provides assistance and advice for vulnerable energy and postal services consumers and for energy consumers threatened with disconnection of supply.

167. Consumer Focus's budget for 2010/11 is £14.9m; over one-third of this is from BIS, with the rest coming from licence fees paid by energy suppliers and the postal industry.<sup>2</sup> Consumer Focus operates in Wales, Scotland and Northern Ireland through territorial organisations with a specific remit to look at issues facing the devolved nations.
168. Consumer Focus was created on 1 October 2008, by the merger of Postwatch, Energywatch and the Welsh, Scottish and National Consumer Councils (NCC) and generated efficiency savings up to £7m per year<sup>3</sup>. The actions of Consumer Focus have brought about change in a number of markets and public services to deliver better value, access, customer service and consumer protection.
169. Since its creation Consumer Focus estimates that it has recovered £500m for consumers in direct and indirect benefits (equating to £250m per annum). This includes
  - The return of £70m to 1.8m Npower customers because of energy bill overpayments in 2007
  - 100,000 consumers a week who switch energy supplier or tariff and save an average of £32 a year.
170. More research, however, would be needed to establish whether all the benefits can be fully attributed to Consumer Focus i.e. some consumers might have switched energy supplier anyway.
171. **Citizens Advice** service – comprising Citizens Advice in England and Wales, along with its Scottish counterpart, Citizens Advice Scotland – are charitable membership organisations whose members, the Citizens Advice Bureaux (CAB), are themselves independent charities. Citizens Advice collects and analyses evidence from CAB clients to influence the Government and business policies on behalf of citizens locally, regionally and nationally. From this local intelligence, Citizens Advice is able to spot trends and collate evidence on markets, Government policies, services which are not working well for consumers. The Citizens Advice service writes and researches evidence reports and detailed responses to consultations and also provides numerous briefings for MPs, MSPs and Welsh Assembly Members. Volunteer campaigners or social policy co-ordinators in local bureaux play a key role in collating evidence and raising the profile of policy concerns locally, regionally and nationally.
172. BIS already provides significant funds to Citizens Advice. In 2011/12 BIS provided £18.9m to Citizens Advice (plus £2.9m to Citizens Advice Scotland) for cost of organisation and customer services. And £17.9m for face-to-face debt advice.
173. **The OFT** also conducts consumer-oriented research about the functioning of particular markets. The OFT does not consider itself to be a consumer advocacy body, as such, but to the extent that it conducts consumer market research where there is no competition angle, its activity overlaps with Consumer Focus and others.

## Issue

174. The general consumer advocacy bodies outlined above are all active which means that there is no single, coherent, voice for the consumer. This creates scope for duplication across these bodies in various activities, such as analysing levels of consumer detriment to help determine policy priorities across different markets. Or to speak with authority for all consumers in discussion with companies, with Government, or in Europe.
175. In reviewing the consumer landscape, BIS has found evidence of overlap and duplication between the various advocacy bodies. For example, there is some overlap on responses to government consultations from both Consumer Focus and Citizens Advice. Similarly, both bodies

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<sup>2</sup> Consumer Focus funding was provided by BIS (£5.7m), energy license holders (£5.8m) and postal licence holders (£3.4m)

<sup>3</sup> The cost of running Postwatch, Energywatch and NCCs in 2006/7 was £22.6 million. Energywatch and Postwatch 1<sup>st</sup> tier advice services were transferred to Consumer Direct, the cost of running this service is around £1m per year, and the funding of Consumer Focus in 2009/10 was around £15 million.

produce research in related areas (energy and financial sector) which suggests there could be efficiency savings by combining both bodies (e.g. specialist and backroom staff could be shared across the two organisations).

176. Government has an ongoing responsibility to ensure that public funds are used effectively and efficiently. Efficiency savings have already been realised through the merger of several consumer-related bodies into Consumer Focus, as outlined above. Further savings can be made through changes to the institutional framework for consumer policy, with additional benefits from the merger of the Consumer Focus strengths with those of Citizens Advice including its access to consumer evidence collected in its bureaux.

## Rationale

177. Government has a rationale to help provide consumer advocacy due to market failures such as informational asymmetries (which means consumers are not able to collect sufficient, cost effective information to be empowered) and market power (where firms may be able to exploit certain market features). As a result a consumer advocate may be better placed to collect evidence and make improvements for groups of consumers where individuals would not be able to have the same impact due to cost of information gathering, absence of coordination etc.
178. The Government would like to reduce the complexity of the consumer landscape and must ensure that any public expenditure is used in the most cost-effective manner. The main publicly-funded bodies involved in general advocacy are Consumer Focus and the Citizens Advice services – Citizens Advice and Citizens Advice Scotland. These proposals are intended to reduce the overlap between the areas of work of Consumer Focus and the Citizens Advice services identified above.
179. Brigading advocacy resource into a single organisation should both improve the effectiveness of advocacy through, for example, synergies with Citizens Advice local consumer information, and also achieve efficiency savings through the reduction of overheads.

### Objectives

180. The objectives of Government policy in the consumer landscape review are
- strengthen the front line of consumer empowerment and protection
  - reduce the complexity of the consumer landscape
  - deliver consumer services more cost-effectively and consistently.
181. The intended aims of this reform are to improve the impact of consumer advocacy, reduce the complexity of the consumer landscape, increase cost efficiency and harness consumer detriment evidence. A more powerful and authoritative consumer advocate will be able to better improve markets and empower consumers. Empowered consumers and effective markets are necessary to facilitate competition and support the associated benefits of innovation, productivity and economic growth.

## Options identification

182. In order to address the problems identified above, six potential options were considered:
- Option 1: Transfer all Consumer Focus consumer advocacy functions to Citizens Advice:
  - Option 2: Transfer Consumer Focus general advocacy functions to Citizens Advice (sector advocacy remains with Consumer Focus)
  - Option 3: Transfer Consumer Focus general advocacy functions to Citizens Advice first and transfer sector advocacy after 5 years (same as option 2 but sector advocacy transfers after 5 years)
  - Option 4: Transfer Citizens Advice general advocacy funding to Consumer Focus (discarded)
  - Option 5: Abolish Consumer Focus without transferring any of its functions (discarded)



- Option 6: Promote closer co-operation between existing bodies (discarded)

## Discarded options

183. The first two options above have been subjected to detailed cost-benefit analysis. The reasons for not developing the last three options further are set out below.

### Option 4: Transfer CitA general advocacy to Consumer Focus

184. Under this option, Citizens Advice general advocacy funding from BIS would be transferred to Consumer Focus. Consumer Focus would be able to expand its general advocacy functions and would continue to provide its sectoral advocacy services. However, as a private organisation, Citizens Advice could still undertake general advocacy. As a result, Citizens Advice could decide to cut back in other areas, such as advice to consumers, and continue with their current general advocacy. As Citizens Advice is a highly regarded and effective consumer advisory body this would impact consumers negatively. Furthermore there would be no efficiency savings if both bodies continued to carry out advocacy.
185. If Citizen Advice stopped its advocacy functions altogether, this would remove the direct link between national advocacy and local bureaux information which could reduce the overall value and relevance of consumer representation. In addition, Citizens Advice have established expertise in general advocacy functions which would be lost in the event of funding being transferred to Consumer Focus.
186. No responses to the consultation supported moving Citizen Advice's general advocacy functions to Consumer Focus, in fact many responses said that this work was of good quality and should continue.

### Option 5: Abolish Consumer Focus without transferring any of its functions

187. Under this option the powers, functions and funding of Consumer Focus would be abolished and not transferred to Citizens Advice.<sup>4</sup> While this would simplify the consumer landscape by removing one public body completely, abolishing all Consumer Focus functions without transferring them to another body would significantly reduce consumer advocacy and the associated benefits of consumer protection and empowerment. This would fail to meet the objective to strengthen consumer advocacy. In terms of costs and benefits, this option would generate the greatest savings to the Exchequer (£5.7m per annum).
188. It would also be difficult to resolve concerns regarding responsibilities under the Consumer, Estate Agents and Redress Act 2007 to provide advice to aid vulnerable consumers in energy and postal services. Some organisation would have to carry these on and there are concerns that a small organisation would not have critical mass to carry this out efficiently.
189. There was no support in the consultation for stopping advocacy work altogether. All responses that made substantive comments on advocacy did so positively saying that this was a very important function.

### Option 6: Promote closer co-operation between existing bodies

190. This option would see closer co-operation between Consumer Focus and Citizens Advice. This could potentially be achieved through, for example, joint membership of their Boards, encouraging further sharing of expertise through staff secondments and encouraging greater sharing of their client data.
191. This option was not developed further, as closer co-operation would not achieve the objective of simplifying the landscape for consumers; nor would it secure the full efficiency savings from reducing the number of organisations, as there would still be (for example) separate IT systems, Boards and Chief Executives for the two organisations.
192. While several responses to the consultation mentioned the need for greater partnership working amongst consumer advocates, this was proposed in addition to sectoral advocacy and not instead of.

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<sup>4</sup>This option would require the CERA Act being amended, in particular removing Consumer Focus' statutory duties

## Do nothing

193. The consumer landscape would remain unchanged. Consumer Focus would continue to have the right to investigate any consumer detriment if it was of wider public interest and would continue to provide information about consumer rights in the energy and postal sectors.
194. Whilst several respondents to the consultation spoke very highly of Consumer Focus' work most of these identified areas for future improvement; for example in the use of information powers and better partnership working with other advocates.

## Option 1: Transfer all of the functions of Consumer Focus to Citizens Advice

195. Under this option, the majority of the powers, functions and budget of Consumer Focus would be transferred to the Citizens Advice service.<sup>5</sup> In respect of some of the other functions of Consumer Focus, however, especially where there is a degree of overlap with existing Citizens Advice services, Consumer Focus functions would simply be stopped, allowing efficiency gains to be realised. Most Consumer Focus posts (and therefore its technical expertise) would be transferred to join Citizens Advice with the exception of posts where there is overlap (such as top of office and back office).

### Costs

196. There will be one-off transition costs from transferring functions and powers from Consumer Focus to Citizens Advice. There will also be ongoing costs from the transfer of civil service pensions to a private sector scheme. These costs will fall on Government.

#### *Transition costs from transferring functions from Consumer Focus to Citizens Advice*

197. Many Consumer Focus functions will be transferred to the Citizens Advice with redundancy costs limited to staff in those activities which will be stopped rather than transferred. However there would be costs associated with the transfer of civil service staff pension rights to the private sector. The significant transition costs are:

- Transfer of civil service staff to private sector (pension top up)
- Redundancy of overlap staff
- Practicalities for Citizens Advice of absorbing the additional staff and functions

The ongoing costs are the additional cost of the employer contributions to the private sector pension scheme to provide equivalent benefits as the existing civil service scheme.

- Additional employer pension contributions

198. Pension transfer and redundancy costs are transfers of cash and are not economic costs. A similar example is the potential transfer of pension liabilities from Royal Mail to the state which has been considered a transfer.
199. Analysis of Consumer Focus staff functions and discussions with Consumer Focus and Citizens Advice has provided an estimate that, of its 108 permanent staff, approximately 95 Consumer Focus staff would transfer and an additional 13 would be at risk of redundancy. The 13 at risk of redundancy are board members (7) and back office (6) which constitute the overlap.

### Transfer pension costs

200. There would be increased employer pension contributions arising from the Fair Deal requirement for the new employer to provide a broadly comparable defined contribution pension scheme. Using evidence of two recent examples of staff transfer from the civil service to private organisations<sup>6</sup> we assume that a one off £80k top up of each pension would be necessary for all staff with the Principal Civil Service Pension (PSCP) (about 50% of Consumer Focus staff or 47.5 staff).

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<sup>5</sup> The following functions would be transferred: electricity, gas and postal sectoral advocacy, EU and international advocacy, the Extra Help Unit (which deals with investigating complaints relating to disconnection of gas or electricity and vulnerable consumers in energy and post) and consumer research activities.

<sup>6</sup> Transfer of various Government bodies when Ofcom was created and the transfer of some civil service RDA staff to a consultancy.

201. In addition, using the example of a Prudential Insurance scheme used in these circumstances, we assume that employer pension contributions would increase by 28.7 percentage points for all staff (not just PCSP).
202. The one off cost of pension transfer would be £3.8m (£80k\*47.5 staff).
203. The additional ongoing employer contributions would be £990k per year. (Average CF salary of £36k\*0.287\*95 = £990k).

### **Redundancy costs**

- Back office: Average CF salary (£36k) \* average CF service (6 years) = £18k per staff. Six back office staff at risk of redundancy. One off cost of £108k.
  - Board: Analysis of the details of board pay and service yields one off cost of £383k.
204. **Total transition cost** = £4.3m (£3.8m + £108k+ £383k)
205. **Annual ongoing cost** = £990k

### *Accommodation and contracts*

206. Consumer Focus rents space in OFT's building. There would be no significant liabilities should Consumer Focus cease to require this space. These CF staff will be accommodated at CitA HQ hence there will be no significant additional accommodation costs (or savings).

### **Practicalities for Citizens Advice of absorbing the additional staff and functions**

207. It may be the case that Citizens Advice faces some practical costs and difficulties in absorbing the Consumer Focus staff and functions. Therefore option 3 was proposed to help manage the transition.
208. OFT estimated the logistical cost of transferring staff, equipment and furniture at £500 per head. The staff will be located in available space at Citizens Advice existing London HQ. It may also be the case that Citizens Advice may have to purchase additional IT equipment for at least some staff which we assume to be £500 per head on average. 95 staff \* £1000 = £100k.
209. The transfer of so many people may require a project team to manage the process. We assume that the project team would consist of 2 HEOs and one G5 for 6 months. Using Consumer Focus salary bands this would cost around £70k. This cost will be a tiny proportion of the cost to BIS (redundancies, pension transfers) and has not been estimated in further detail as attention has focused on the most significant costs.

### *Familiarisation costs associated with new landscape for consumers and businesses*

210. There will be no familiarisation costs because Citizens Advice is a high profile organisation and if business or consumers wanted to discuss an issue it would simply be a case of contacting Citizens Advice rather than Consumer Focus.

### **Benefits**

211. Citizens Advice and Citizens Advice Scotland (CAS) are third-sector organisations with high brand recognition and an extensive network of local bureaux supported by a central guidance/policy and social advocacy function.
212. This option, in conjunction with other proposals in the consumer landscape IAs will simplify the consumer landscape – there will be fewer bodies and better working relationships between those that remain. The increased profile of the new unitary advocacy body will provide a critical mass and with it an empowered voice with influence over regulators, businesses and Government.
213. The application of the local consumer information gathered through the network of Bureaux will greatly improve the evidence and impact of consumer advocacy. This body of evidence will be improved even further with the proposed transfers of the Extra Help Unit and Consumer Direct. Citizens Advice will therefore become an extremely well informed advocate, able to identify issues that matter to consumers and influence accordingly. Citizens Advice have a well known brand that consumers will recognise and trust. Many consumers will already be using Citizens Advice's services and under this proposal will benefit from continuity of service - the same organisation that they turn to for advice when policies and services are not working will be championing their rights in early policy formation.

### *Efficiency savings*

214. The cessation of some existing Consumer Focus functions and elimination of back office and top of office overlaps would involve 13 redundancies. Ongoing savings of £757k per year.
- Back office: This would save £216k per year (6\*£36k average salary).
  - Board: This would save £541k per year (from detail of salaries, average of just under £80k).

### *Benefits of locally-gathered information*

215. The presence of Citizens Advice on the high street will be an important part of delivering an advocacy service that is more directly relevant to consumers and more easily accessible. This will provide a direct link between national policy and local delivery and create a two-way dialogue between consumers and the national advocacy function. General consumer advocacy will be enhanced from real-time front-line information about what is causing concern to consumers, and what the priorities are for consumer advocacy. This locally-gathered information will enable a more grass-roots approach to developing evidence of consumer detriment and will strengthen the overall value and relevance of consumer representation through strong and accessible local delivery.
216. In addition to the data from local bureaux, Consumer Direct (the Government funded consumer advice telephone, internet etc service) will be transferred to CitA as part of the wider consumer landscape reforms. Direct access to this information, combined with data from bureaux, is likely to significantly improve the scope of Citizens Advice to harness all the sources of information and evidence and work as a powerful consumer advocate.
217. While the benefit of additional consumer data (from Bureaux) cannot be quantified it would clearly be a significant addition to the evidence that can be used in consumer advocacy and would add to Citizens Advice to act as a powerful consumer advocate.

### *Widened access for vulnerable consumers in energy and postal sectors*

218. As outlined above, Consumer Focus currently has statutory responsibilities to investigate complaints by designated vulnerable consumers in the energy and postal sectors, including those relating to disconnection of gas or electricity. Under this option, access to this advocacy function would be widened due to the presence of Citizens Advice Bureaux on the high street, rather than having to submit complaints via telephone or online to Consumer Focus as is the case now.

### *Ability of a single consumer advocate to speak with authority and expertise*

219. A unitary, well resourced consumer advocacy body with access to unrivalled consumer information will speak with authority and expertise when seeking to improve markets and influence other organisations.
220. These benefits are not quantified. In order to do so we would need better evidence on the impact that advocacy has on individual or all consumers which would be costly to try to estimate. Evidence does exist for specific examples where Consumer Focus, for example, has successfully helped to change a particular business or sector's practices. But these examples are too specific to be applied across the economy.

## **Option 1: Transfer all Consumer Focus advocacy to Citizens Advice**

### **Costs**

- **Transition cost** of redundancy and pensions top up = £4.3m (Transfer payments)
- **Annual ongoing cost** of additional employer contributions = £990k per year (Transfer payments)
- **Logistical cost of transferring staff + new IT equipment** = £170k.

### **Benefits**

- **Cessation of overlap** (board and back office) = £757k per year
- Citizens Advice has high recognition with consumers, especially vulnerable, and can harness the information on consumer issues collected via its many bureaux for advocacy work
- A single, authoritative consumer advocate with access to wide ranging evidence on consumer concerns, will be better able to make an impact on markets and other relevant organisations
- A single consumer advocate will simplify the consumer landscape

### **NPV**

- +£6.31m

## **Option 2: Transfer Consumer Focus general advocacy functions only to Citizens Advice (sector advocacy remains with Consumer Focus)**

221. Under this option, Consumer Focus general advocacy functions would be transferred to Citizens Advice. Consumer Focus general advocacy functions which overlap with Citizens Advice advocacy functions would be stopped, allowing some efficiency gains to be realised. Consumer Focus would continue to provide sectoral advocacy and remain a separate public body.

222. This option has been considered due to concerns from some stakeholders in the consultation about Citizens Advice's existing ability to advocate for the regulated sectors.

### *Costs*

#### *Transition costs from transferring general advocacy functions from Consumer Focus to Citizens Advice*

223. There will be one-off transition costs from transferring functions and powers from Consumer Focus to Citizens Advice similar to option 1. Analysis of Consumer Focus staff functions and discussions with Consumer Focus and Citizens Advice has provided an estimate that, of the 108 permanent staff, approximately 5 Consumer Focus staff would transfer and 10 would be at risk of redundancy.

224. Using the assumptions detailed in option 1 provides the following (pension top of £80k for half those that transfer, additional employer contributions of 28.7%)<sup>7</sup>

225. **Total transition cost** = £560k (£200k pension transfer + £360k redundancy)

226. **Annual ongoing cost** = £52k (of additional employer contributions)

### *Logistical costs*

227. As in option 1 we assume there is a logistical and IT cost of £1000 per head or £5000.

### *Familiarisation costs associated with new landscape for consumers and businesses*

228. There will be no familiarisation costs because Citizens Advice is a high profile organisation and if business or consumers wanted to discuss an issue it would simply be a case of contacting Citizens Advice rather than Consumer Focus.

### *Absence of simplification*

<sup>7</sup> Pension transfer and redundancy costs are transfers of cash and are not economic costs.

229. This option would not remove a body from the consumer landscape and therefore would not contribute to simplification.

## Benefits

### *Efficiency savings*

230. The cessation of some existing Consumer Focus functions and elimination of unnecessary back office and top of office staff would involve 18 redundancies. This would save £360k per year (10\*£36k average salary). This is an underestimate as it includes a few board members on salaries significantly above the average salary. At this point it is not known how many Consumer Focus board members would be necessary.

### *Benefits of locally-gathered information*

231. The presence of Citizens Advice Bureaux on the high street would be an important part of delivering a general advocacy service that is more directly relevant to consumers. This will provide a direct link between national policy and local delivery and create a two-way dialogue between consumers and the national advocacy function. General consumer advocacy will be enhanced from real-time front-line information about what is causing concern to consumers, and what the priorities are for consumer advocacy. This locally-gathered information will enable a more grass-roots approach to developing evidence of consumer detriment and will strengthen the overall value and relevance of consumer representation through strong and accessible local delivery.

232. In addition to the data from local bureaux, Consumer Direct (the Government funded consumer advice telephone, internet etc service) will be transferred to CitA as part of the wider consumer landscape reforms. Direct access to this information, combined with data from bureaux, is likely to significantly improve the scope of Citizens Advice to harness all the sources of information and evidence and work as a powerful consumer advocate.

233. However the additional benefit of locally gathered consumer evidence will not be available to sector advocacy in this option. Hence the benefits will be somewhat less than in option one.

### *Ability of a more powerful consumer advocate to speak with authority and expertise*

234. While the benefit of additional consumer data (from Bureaux) cannot be quantified it would clearly be a significant addition to the evidence that can be used in consumer advocacy.

235. However, in this option there will not be greater access for vulnerable energy and postal consumers and, as there will be more than one sector advocate, the landscape will not be simplified.

### *Benefits of proven track record & technical expertise*

236. Consumer Focus have built up a good track record, particularly in the energy sector since its

## **Option 2: Transfer Consumer Focus general advocacy to Citizens Advice, Consumer Focus retain sectoral advocacy**

### **Costs**

- **Total transition cost** of redundancy and pensions top up = £560k (Transfer payments)
- **Annual ongoing cost** of additional employer contributions = £50k per year (Transfer payments)
- **Logistics and new IT equipment** for 5 staff = £5k
- Consumer landscape not simplified

### **Benefits**

- **Cessation of overlap** (board and back office) = £360k per year
- Citizens Advice has high recognition with consumers, especially vulnerable, and can harness the information on consumer issues collected via its many bureaux for advocacy work (but not for all sectors as in option 1)
- An authoritative consumer advocate with access to wide ranging evidence on consumer concerns, will be better able to make an impact on markets and other relevant organisations (but not as much as option 1)

### **NPV**

- +£3m

formation over the last [don't want to push this point too far but can be built upon if necessary]

237. Whilst the intention under Option 1 is to retain the technical expertise at Consumer Focus through the transfer of staff, retaining Consumer Focus itself in this way may improve the likelihood of retaining these staff.

### **Option 3: Transfer Consumer Focus general advocacy functions only to Citizens Advice first and sector advocacy transfers after 5 years**

238. Following discussions with Citizens Advice and in consideration of the management of transition costs the preferred option is to transfer all advocacy functions to Citizens Advice. But the transfer of sectoral advocacy would be delayed for a number of years.
239. The rationale for the phased approach is to harness the benefits of full transfer to Citizens Advice as described in option 1 but also to
- Spread transition costs over time allowing BIS to manage budgets
  - Give Citizens Advice more time to manage the transition and absorb staff.

#### *Costs and benefits*

240. Costs and benefits are as described in option 1 with the exception that the transfer of sectoral regulation staff (and redundancy of the remaining overlap staff) occurs after 5 years so the staff savings are between those in options 1 and 2.

#### **Option 3: Transfer all Consumer Focus advocacy to Citizens Advice but delay transfer of sectoral advocacy (phased approach)**

##### **Costs**

- **Total transition cost** of redundancy and pensions top up = £4.3m (Transfer payments)
- **Annual ongoing cost** of additional employer contributions = £990k per year (Transfer payments)
- **Logistics and additional IT equipment** = £175k.

##### **Benefits**

- **Cessation of overlap** (board and back office) = £360k per year for the first 5 years and £757k for the remaining years
- Citizens Advice has high recognition with consumers, especially vulnerable, and can harness the information on consumer issues collected via its many bureaux for advocacy work
- A single, authoritative consumer advocate with access to wide ranging evidence on consumer concerns, will be better able to make an impact on markets and other relevant organisations
- A single consumer advocate will simplify the consumer landscape

##### **NPV**

- +£4.8m

## **Risks**

### **Option 1**

241. There is a risk that Citizens Advice may not have sufficient expertise to take on additional advocacy responsibilities particularly in respect of sector regulation if Consumer Focus staff prefer to take redundancy than transfer. This risk was raised by a number of stakeholders in the consultation. However, Citizens Advice already has significant experience in general advocacy work and dealing extensively with consumers' problems on the ground at the local level, which has been used to inform advocacy at the national level covering a wide range of areas, including benefit reform, consumer credit and social housing<sup>8</sup>. In addition, the Citizens Advice Service will obtain the same budget as would have to be provided to Consumer Focus for sectoral advocacy, allowing it to recruit experience staff from CF and elsewhere that have the relevant experience.

<sup>8</sup> [http://www.citizensadvice.org.uk/index/policy/policy\\_publications.htm](http://www.citizensadvice.org.uk/index/policy/policy_publications.htm)



242. Moreover, Citizens Advice and CAS clearly understand that these proposed changes will require them to expand and organise themselves differently to deliver these responsibilities. With that in mind, they have been discussing with Consumer Focus an agreed model for delivery of sectoral advocacy in the future. They have provided BIS with an initial assessment and are confident they have the necessary expertise to take on the additional responsibilities. BIS, Citizens Advice and CAS will be undertaking further work on this over the period of the consultation. Given the strong track record of both Citizens Advice and CAS in general advocacy and the proposals set out here to ensure that they have the necessary resources to take on this additional activity (potentially including staff from Consumer Focus) – the risks to delivery of consumer advocacy functions under Option 1 appear low.

## Option 2

243. Under this option, the expertise in general advocacy built up by Consumer Focus over the last couple of years could be lost if staff prefer to take redundancy than to transfer to Citizens Advice.. However, Citizens Advice already has significant experience in general advocacy work and dealing extensively with consumers' problems on the ground at the local level, which has been used to inform advocacy at the national level covering a wide range of areas, including benefit reform, consumer credit and social housing<sup>9</sup>. In addition, the Citizens Advice Service will obtain the same budget as would have to be provided to Consumer Focus for sectoral advocacy, allowing it to recruit experience staff from CF and elsewhere.

## Option 3

244. This option was designed to help mitigate the risks identified in option 1 and thus to minimise possible organisation transition problems from transferring responsibility and staff to Citizens Advice. It will also help BIS manage transition costs.

## Summary

245. There is scope for significant streamlining of the bodies involved in consumer advocacy to provide a more effective use of public funding, as well as an opportunity to strengthen the link to local issues that consumers care most about.
246. The option to focus resources and responsibilities on Citizens Advice (with a phased approach), Option 3, is the Government's preferred option to achieve this. This will enhance the link to local consumers and will help ensure that national bodies tackle the real issues affecting consumers, while strengthening the frontline of consumer empowerment and protection. In addition, this should also help to contribute to the objective of reducing complexity in the consumer landscape.
247. While this option would involve significant transfer costs, due to the transfer of staff, that Government would have to pay the potential benefits from the harnessing of CitA's consumer data in one organisation, along with the other benefits mentioned, are considered to be sufficiently significant in comparison. The transfer of staff and the phased approach also mitigates the main consultation concern that CitA would not immediately have sufficient expertise in the relevant regulated sectors.

## One In One Out

248. Transfer of responsibility for consumer advocacy would involve the transfer of powers and functions from Consumer Focus to Citizens Advice. Although the nature and scope of legislation is not changing this is an IN because Citizens Advice, a private organisation, will undertake the activity. It is an IN, although with a zero net cost to business as the additional cost on Citizens Advice will be compensated via a grant.

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<sup>9</sup> [http://www.citizensadvice.org.uk/index/policy/policy\\_publications.htm](http://www.citizensadvice.org.uk/index/policy/policy_publications.htm)

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b></p> <p>This impact assessment includes a commitment to review the proposed changes 3 years after implementation (these changes are expected to be fully implemented by 2015) – the review is expected to be undertaken by 2018.</p>
<p><b>Review objective:</b></p> <p>The aim of the review would be to assess whenever or not the changes to the consumer landscape have achieved the objectives set out in this impact assessment – i.e. strengthen the front line of consumer empowerment and protection, reduce the complexity of consumer landscape and for consumer services to be delivered more cost-effectively.</p>
<p><b>Review approach and rationale:</b></p> <p>The review would evaluate the effectiveness of the changes within this impact assessment. The review will incorporate stakeholders' views that will include consumers, business groups, LATSS, and Citizens Advice. Government spending on consumer services will be monitored.</p>
<p><b>Baseline:</b></p> <p>The OFT study on consumer detriment in the UK shows that overall detriment in 2008 was £6.6bn. This will be monitored in the future for the purposes of comparison. Survey data shows the awareness among consumers of their rights. Also, the current level of expenditure on consumer services by the government is known, and can be used a future benchmark.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Increased volume of consumer contact, consumers are more empowered and the level of consumer detriment decreases, likely to be as a result of increased awareness of their rights and confidence in exercising them. In addition, consumer services are delivered at a lower cost to government.</p>
<p><b>Monitoring information arrangements:</b></p> <p>Feedback from businesses, consumers groups, LATSS and Citizens Advice will be achieved through regular engagement. The transition costs will be recorded during the implementation stage and Government will monitor the ongoing costs of the new organisations via annual reports and management information. More general information about the conditions facing consumers can be collected through surveys and the European Commission's Consumer Market Scoreboard, currently published bi-annually.</p>
<p><b>Reasons for not planning a review:</b></p> <p>N/A</p>

## Annex 1: Specific impact tests

### Equality Impact Test

#### *Consumer advocacy/consumer information, advice & education*

249. Changes to the consumer landscape will result in some bodies being abolished and other organisations being redesigned to incorporate new functions and powers. A reallocation of resources and powers towards Citizens Advice, particularly in relation to consumer advocacy and consumer information, advice and education, could have a positive impact on various protected groups.

Characteristics	UK population (%)	Citizens Bureau clients (%) <sup>1</sup>
Female	51 <sup>2</sup>	55
Disabled	5 <sup>3</sup>	25
Age (65+)	17 <sup>4</sup>	10
Single parents	10 <sup>5</sup>	16
Ethnicity	11 <sup>6</sup>	15

250. Recent data<sup>7</sup> shows that certain groups are over-represented among Citizens Advice Bureaux clients, such as females, disabled households, single parents and clients from an ethnic minority background. Therefore, these clients may be positively affected by the focus of resources on Citizens Advice service. However, older persons (defined here as aged 65 and over) are under-represented among CAB clients and may therefore be slightly adversely affected. However, as Citizens Advice is predominantly a face-to-face advice service, this may favour older households that are less likely to use the internet.<sup>8</sup>

251. In addition, the current statutory obligation on Consumer Focus to investigate complaints made by vulnerable consumers in the electricity, gas and postal services sectors (currently fulfilled by the Extra Help Unit within Consumer Focus) will be transferred to Citizens Advice, so this feature of the current consumer landscape will be preserved.

#### *Consumer code approval scheme*

252. As the code will be administered by the TSI in a sufficiently similar fashion to the OFT we do not believe that there will be a significant equality impacts.

#### *Consumer enforcement*

253. In terms of the effect on protected groups associated with moving some OFT functions (and associated funding) to the Trading Standards network, there should not be any adverse impacts as we would anticipate an increase in enforcement cases benefiting all consumers. There should also be a decrease in the 'enforcement gap' identified earlier. This would mean that the number of regional enforcement cases being undertaken should increase, relative to the current situation. While there is no data on the types of consumer affected by the enforcement gap it is likely that those consumers are relatively vulnerable as cases would include small but cross local authority firms that might target vulnerable consumers by, for example, door step selling.

<sup>1</sup> Source: Advice Trends

<sup>2</sup> 2011 data; source: Social Trends No. 40 (ONS)

<sup>3</sup> Based on claimants of Disability Living Allowance in 2008/09; source: Social Trends No. 40 (ONS)

<sup>4</sup> 2011 data; source: Social Trends No. 40 (ONS)

<sup>5</sup> 2009 data; source: Social Trends No. 40 (ONS)

<sup>6</sup> [http://www.statistics.gov.uk/downloads/theme\\_labour/lalm-statistical-indicators-jan11.pdf](http://www.statistics.gov.uk/downloads/theme_labour/lalm-statistical-indicators-jan11.pdf)

<sup>7</sup> Advice Trends, July-Sept 2010 ([http://www.citizensadvice.org.uk/advice\\_trends\\_2010-11\\_q2.pdf](http://www.citizensadvice.org.uk/advice_trends_2010-11_q2.pdf))

<sup>8</sup> 60% of those aged 65 and over have never accessed the internet (source: <http://www.statistics.gov.uk/cci/nugget.asp?id=8>)

## **Competition Test**

254. The proposals within this impact assessment will not (directly or indirectly) limit the range of suppliers or reduce their ability to compete. Proposed reforms to the enforcement landscape could be pro-competitive, by increasing resources allocated to removing rogue firms, which should improve consumer confidence in markets and reward fair-dealing businesses.

## **Small Firms Test**

255. The changes proposed within this impact assessment will affect all law-abiding firms equally. Therefore, we do not believe that there will be a disproportionate impact on smaller firms. Improved co-ordination of consumer enforcement and the other proposed changes to consumer landscape should empower consumers, which will result in markets operating more efficiently.

## **Other Impact Tests**

256. After initial screening, we do not believe that there will be any impacts in the areas of greenhouse gas, wider environmental issues, health and well being, human rights, rural proofing and sustainable development.

<b>Title:</b>  <b>Consumer Landscape Review: Transfer of consumer information, advice and education functions</b>  <b>IA No:</b> BIS0269  <b>Lead department or agency:</b> BIS  <b>Other departments or agencies:</b> NA	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 06/03/2012		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
<b>Contact for enquiries:</b> Matt Bowhill (020 7215 6445)			
<b>Summary: Intervention and Options</b>			<b>RPC:</b> RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£m -14.5	£m 0	£m 0	Yes   OUT

**What is the problem under consideration? Why is government intervention necessary?**

Government has a role to provide consumer information - as a public good it supports empowered consumers and effective markets which in turn support economic activity, innovation, productivity and growth. The current institutional landscape for consumer information, advice and education is crowded with many separate bodies. This creates the potential for duplication of activities and may have resulted in low awareness of available services in some cases. There is scope to significantly improve the impact of consumer information, advice and education by simplifying the institutional landscape.

**What are the policy objectives and the intended effects?**

This IA is one of 4 separate IAs that cover the legislative changes involved in the consumer landscape reforms. The objectives of Government policy are as follows: strengthen the front line of consumer empowerment and protection; reduce the complexity of the consumer landscape; and deliver consumer services more cost-effectively and consistently. This particular reform should support each of the above objectives. As a result consumers should have improved access to the necessary information and advice they need to exercise their rights effectively, delivered by organisations with a strong front-line presence. This should help to reward fair-dealing businesses and support economic growth.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

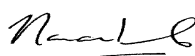
Two substantive options have been considered, relative to the 'do nothing' option:

- Option 1: Streamline public funding and focus resources on the Citizens Advice service
- Option 2: Streamline public funding and focus resources on Consumer Focus

A further option was considered – to cease government funding for information, advice and education – but the proposal does not achieve the objective of strengthening consumer empowerment and protection. Option 2 does not enable us to take advantage of synergies, such as harnessing CitA data from its bureaux and linking Consumer Direct and CitA advice. It does not therefore provide anything like the same potential as option 1 for expansion in reach of consumer information and advice or gains in efficiency. Consultation responses strongly supported option 1.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 01/2018					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> NA		<b>Non-traded:</b> Na

**I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.**



Signed by the responsible SELECT SIGNATORY:

Date: 06/03/2012

## Summary: Analysis & Evidence

Policy Option 1

Description: Streamline public funding and focus resources on the Citizens Advice service

### FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -14.5	High: Option	Best Estimate: -14.5

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	2	Optional	Optional
High	15		0	14.5
Best Estimate	15		0	14.5

#### Description and scale of key monetised costs by 'main affected groups'

Transfer and set up of Consumer Direct from OFT to Citizens Advice (£15m) cost to BIS.

Transfer of OFT and Consumer Focus staff to Citizens Advice (£1m pension cost, £220k ongoing additional employer contributions) cost to BIS. Transfer costs and not economic costs.

#### Other key non-monetised costs by 'main affected groups'

None.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	2	0	0
High	0		0	0
Best Estimate	0		0	0

#### Description and scale of key monetised benefits by 'main affected groups'

Citizens Advice forecast that they will be able to help an additional 1.06 million consumers, which should lead to around 276,000 additional consumer issues being fully resolved p.a. We have conservatively applied EC data on the median financial loss (£9) associated with consumer problems, which yields a total benefit of **£2.5m per year**. We have been deliberately cautious in our estimate given studies that indicate that the benefits could be in excess of £50m per annum. **We assume that these are transfer payments with net impact of zero.**

#### Other key non-monetised benefits by 'main affected groups'

Easier and quicker access to information and advice for consumers should enable them to be more confident in their rights, take better decisions and act more quickly, which should all lead to reduced detriment and help consumers drive competition, innovation and eventually growth. More efficient resource allocation by focusing resources on the Citizens Advice service (e.g. combining first-tier complaints and other feedback from consumers and advocacy on their behalf). Also combining bureaux and telephone/online advice is likely to deliver synergies.

#### Key assumptions/sensitivities/risks

Assume the cost of pension transfer and additional employer contributions.

Discount rate (%)

3.5

### BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	Yes	OUT

## Evidence Base (for summary sheets)

### Introduction

#### The consumer landscape reforms

257. This IA is one of four separate IAs covering the proposed legislative changes involved in the Government's Consumer Landscape reforms.
258. These reforms should improve consumer protection and help and empower consumers. This is critical to ensure that businesses and government understand and respond to their needs. In competition for custom firms will innovate and reduce costs thereby increasing productivity and stimulating economic growth.
259. Consumers also need to know who to turn to for advice, information and redress if things go wrong.
260. We are therefore simplifying the landscape to make Citizens Advice THE place to turn to for information and advice about consumer matters (Information, education and advice IA). They will be the publicly funded voice of the consumer, championing their needs and ensuring that consumers can make the right choices.
261. We also recognise that consumer interests need to be represented in a number of regulated industries (Advocacy IA). We see the benefits of bringing together existing Consumer Focus advocacy together with the information gathered through local Citizens Advice Bureaux and advice lines. This transition will be managed by the creation of an interim small, technical Regulated Industries Unit who will represent the views of other regulated industries until it is transferred to Citizens Advice.
262. Alongside ensuring that consumers are represented, we want to strengthen the protection for consumers from rogue businesses (Enforcement IA). Building on Local Trading Standards work at the local level we will provide funding and mechanisms to strengthen cross-boundary working and establish a Trading Standards Policy Board that will bring together regionally elected representatives from Trading Standards to tackle national and super-regional enforcement cases.
263. 7. To improve leadership across the consumer landscape, share intelligence and prioritise we will establish a Strategic Enforcement and Intelligence Board with membership from Trading Standards, Competition and Markets Authority (CMA), Regulated Industries Unit, Citizens Advice and Which?
264. Supporting fair dealing businesses we will transfer the OFT's Consumer Codes work to Trading Standards Institute so the CMA can focus on competition (*Codes IA*).

#### Information, advice and education IA

265. This impact assessment considers proposed changes to the provision of consumer information, advice and education. These reforms involve the repeal of OFT's function to acquire from and provide information to the public. The current OFT budget for these functions would transfer to BIS who would ask the Citizens Advice service to undertake similar functions and would increase their grant accordingly. The reforms also involve amendment of arrangements set out in legislation for using levy funding from the energy and postal companies to reimburse the costs of providing information and advice to consumers of services in those sectors.
266. The Government's preferred option is to focus resources currently allocated to consumer information, advice and education on the Citizens Advice service (Option 1). Channelling resources to the Citizens Advice service which has high consumer recognition should help to strengthen the frontline of consumer protection and enforcement while reducing the complexity of the consumer landscape. It also creates capacity to expand advice to citizens on a range of other issues through the same on-line and call centre infrastructure, an opportunity which would not be available under the option of a transfer to Consumer Focus.

#### Consultation views

267. In the consultation and follow on discussions with stakeholders there was widespread agreement that the current landscape of information and advice was confusing for the consumer and should be simplified. Most respondents also agreed with the Government's plans to transfer OFT's role,

including the Consumer Direct service and the Consumer Focus Extra Help unit to the Citizens Advice service.

### Legislative Change

268. In the preferred option the following legislative changes to transfer responsibility for consumer information, education and advice from OFT and Consumer Focus would be required. No additional powers or duties would be created.
- Part 1 Sections 5 and 6 of the EA 2002, which gives the OFT the functions to acquire information to support its functions and to provide information to the public, including educational material, would be repealed. In their place BIS would ask Citizens Advice to undertake these activities.
  - The Consumers, Estate Agents and Redress (CEAR) Act 2007 gives Consumer Focus a range of functions aimed at helping vulnerable consumers of energy and postal services. The Citizens Advice service would replace Consumer Focus as the body responsible for these activities and the legislation would be changed to reflect that.
  - The CEAR Act 2007 also provides for a proportion of the funding for the OFT Consumer Direct helpline to be paid for by levies on regulated firms in the energy and post sectors in order to provide information and advice to consumers of services in those sectors. This would be amended to allow the costs born by the new Citizens Advice service helpline to be similarly funded from the levy.

## Background

269. For consumers to be empowered it is essential that they have information about their rights and are able to understand how to use this to prevent or resolve problems in buying goods and services. Empowered consumers help to drive competition by shopping around and demanding more of businesses. In turn businesses must work harder to win custom by offering better products, innovating and reducing costs. This increases productivity and drives economic growth.
270. Empowered consumers will be able to resolve complaints, shop around more effectively etc and therefore be better able to maximise their welfare.
271. Government support for empowering consumers may be achieved in three ways:
- **information** for people who are aware of the risks and the rewards of exercising choice and capable of choosing effectively and asserting consumer rights if pointed to the right material;
  - **advice** for people who need help to interpret or apply information, and
  - **education** for people who may not be aware of the risks in relevant markets or the importance of exercising choice carefully or that they have particular rights as consumers.

### Information and advice

272. Information and advice for consumers is usually provided by traders in the first instance. Many businesses have developed systems to ensure that their staff give accurate advice to consumers in order to inspire trust. Other businesses and third sector bodies help consumers compare the offers of a range of suppliers. The growth in e-commerce in recent years has spawned a host of business-driven models for analysing and comparing prices and other terms of supply, as well as assembling consumer feedback and reviews. Consumers can shortcut traditional accreditation schemes and instead get access to the opinions and experiences of users.
273. However, there are also sources of free or cheap advice from the public and charitable sectors. In Great Britain, publicly-funded information and advice is provided by a range of consumer bodies:
- Information about general consumer rights and advice about making wise decisions in purchasing goods and services, as well as what to do when things go wrong, is provided by **Consumer**



**Direct** through its contact centre and website.<sup>1</sup> This is currently managed by the OFT and is delivered by a number of providers around the country;

- **Local Authority Trading Standards Service (LATSS)** offices publish information for consumers about local issues and campaigns, usually online, together with material from Consumer Direct. Almost all calls to LATSS for information and advice are handled by Consumer Direct in the first instance; for cases where follow-up is needed, Consumer Direct will make a referral back to the relevant LATSS;
- **Citizens Advice (CitA)** and **Citizens Advice Scotland (CAS)** provide information online<sup>2</sup> about consumer issues and consumer information is produced in-house from primary sources. The Citizens Advice Bureaux network provides advice to their clients through a variety of mechanisms including telephone<sup>3</sup> and face-to-face advice on a wide range of topics, including consumer issues.<sup>4</sup> The consumer body **Which?** provides information and advice through its website<sup>5</sup> and magazine as well as paid-for legal advice;
- In the regulated sectors (e.g. post, communication, energy), the **independent regulators** provide information about their sectors and some provide advice to consumers on topical issues.
- Extra Help Unit, part of Consumer Focus, which provides extra information and advice to vulnerable energy and post consumers.

274. Consumer policy is devolved in Northern Ireland and public funding for consumer information and advice is the responsibility of the Northern Ireland Assembly Government. The **Consumer Council for Northern Ireland** provides general and regulated sector-specific information and advice to consumers in the province.<sup>6</sup> **Citizens Advice Northern Ireland** and the bureaux provide a similar service to that in Great Britain.

## Education

275. Education about consumer issues is for people who may not realise that they have a problem or that they have particular rights as consumers. Education activities fall into three categories:

- awareness-raising among the public at national and local levels about consumer rights, scams and rogue traders (OFT and Trading Standards);
- direct education of the public and provision of materials to teachers (Trading Standards, supported by OFT); and
- educating businesses about their responsibilities to treat consumers fairly (Trading Standards, supported by OFT).

276. Much of the national publicly-funded awareness-raising activity aimed at the public has been led by the OFT, whose campaigns have included 'Know Your Rights', conducted through the media and reinforced by promotional material distributed to LATSS and through Citizens Advice. In addition, Consumer Focus, Which?, Citizens Advice and Citizens Advice Scotland (as well as the Scambuster and Illegal Money Lending teams) also carry out public information campaigns.

277. Education activities for the public at a local level are usually carried out by Trading Standards officers and their colleagues in local government, sometimes in collaboration with the OFT. An example is 'Skilled to Go', where the OFT has produced materials for teachers to help empower students in adult and secondary education, particularly in the context of literacy and numeracy education, about buying goods and services and use practical examples like buying a mobile telephone.<sup>7</sup> LATSS offer extra support to teachers and make visits to schools and colleges to

<sup>1</sup> [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk); in 2009-10, Consumer Direct advisors answered over 1.7 million calls and emails, including 857,000 complaint cases and 190,000 calls and emails regarding energy and post during the year, which was the first full year that the OFT collected this information

<sup>2</sup> Via a UK-wide, public-facing website ([www.adviceguide.org.uk](http://www.adviceguide.org.uk)), which received 12 million hits in 2010

<sup>3</sup> In Scotland, Citizens Advice Scotland has established a telephone advice line, Citizens Advice Direct, which is funded by the Scottish Government and will be expanded to cover the whole of Scotland in 2011.

<sup>4</sup> Approximately 6% of the face-to-face (2nd tier advice) cases handled by Citizens Advice bureaux advisers concern consumer issues; the large majority of bureaux cases are currently concerned with access to benefits or debt.

<sup>5</sup> [www.which.co.uk](http://www.which.co.uk)

<sup>6</sup> [www.consumercouncil.org.uk](http://www.consumercouncil.org.uk)

<sup>7</sup> For more information, see [http://www.offt.gov.uk/shared\\_offt/consumer\\_education\\_old/offt1040.pdf](http://www.offt.gov.uk/shared_offt/consumer_education_old/offt1040.pdf)

reinforce the messages in the OFT material. Many LATSS work closely with other local authority departments responsible for education, public information and protection of vulnerable people.

## Issue

### Low awareness of consumer rights & access to information

278. Research by BIS has found that a substantial minority of consumers are either not well informed about their rights (with around one-third describing themselves as 'not at all informed' or 'not very well informed') or find accessing information or advice about their rights difficult (around one-quarter of respondents)<sup>8</sup>. Those types of consumers who find it particularly difficult tend to be older, in a lower socio-economic category and with lower income. In a recent survey, 60% of consumers said that they would find it helpful to have more information about their rights as a consumer.<sup>9</sup>
279. Awareness of consumer rights has also been affected by the increased use of distance purchasing and the internet. For example, evidence from a telephone survey by OFT in 2009 found that the proportion of consumers who said they were 'very aware' of their rights when shopping online has almost doubled since a similar survey was conducted in 2006 but still stands at around a quarter (26%).<sup>10</sup> This lack of awareness can translate into confidence about exercising those rights – research by BIS in 2009 found that only 37% of consumers felt 'very confident' about getting a refund or replacement when returning faulty goods.<sup>11</sup>

### Complex institutional landscape for consumer advice & information

280. As set out earlier, the current landscape for delivering consumer information and advice is crowded and the profusion of potential consumer advice bodies could contribute to low levels of awareness, and effectiveness. For example, Citizens Advice (CitA) claims a public awareness rating of 95%<sup>12</sup>, while unprompted awareness of Consumer Direct is only 1-2%<sup>13</sup> (despite the fact that consumer satisfaction with services provided by Consumer Direct is similar to Citizens Advice at around 85%).<sup>14</sup> Recent research by Consumer Focus found that one-third of consumers who had experienced unfair commercial practices did not know where to go or who to complain to for help, and one-fifth were unsure of their rights.<sup>15</sup> In addition, the OFT's research found that the proportion of online shoppers who did not know where to go for advice on their rights had fallen, but still accounted for around 1 in 6 (16%).
281. Research for BIS found that almost 40% of consumers would go to Citizens Advice to check their consumer rights, with only 4% choosing Consumer Direct and 2% selecting 'Which?'.<sup>16</sup> Research by the OFT found that 22% of consumers would go to a Citizens Advice bureau for advice about their rights when shopping online, with 11% going to a consumer association/interest group and 2% to Consumer Direct.<sup>17</sup>

## Rationale

282. Evidence presented above on the poor awareness of consumers on their rights indicates that there is still significant scope for government to help empower consumers. While business and other organisations do provide relevant information, advice and education not all consumers will have access to information and the cost of collecting relevant information may be too high in many cases. The public good aspects of information and positive spill over effects in terms of empowered consumers helping to drive competition provide a continued rationale for intervention.

<sup>8</sup> <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/consumer4.pdf> (2001); <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/know2002.pdf> (2002); <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/ccp/topics1/pdf1/survey03.pdf> (2003); 'Consumer Rights Omnibus Survey' (2008)

<sup>9</sup> Consumer Rights Omnibus Survey' (2008)

<sup>10</sup> [www.of.gov.uk/shared\\_of/reports/Evaluating-OFTs-work/oft1079.pdf](http://www.of.gov.uk/shared_of/reports/Evaluating-OFTs-work/oft1079.pdf)

<sup>11</sup> [www.berr.gov.uk/files/file52820.pdf](http://www.berr.gov.uk/files/file52820.pdf)

<sup>12</sup> Source: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

<sup>13</sup> Source: OFT

<sup>14</sup> [www.consumerdirect.gov.uk/shared\\_cd/mediaibrary/325786/Consumer\\_Direct\\_wave\\_10\\_FIN1.ppt](http://www.consumerdirect.gov.uk/shared_cd/mediaibrary/325786/Consumer_Direct_wave_10_FIN1.ppt)

<sup>15</sup> [www.consumerfocus.org.uk/assets/1/files/2009/11/UCPDresearch.pdf](http://www.consumerfocus.org.uk/assets/1/files/2009/11/UCPDresearch.pdf)

<sup>16</sup> Consumer Rights Omnibus Survey' (2008)

<sup>17</sup> [www.of.gov.uk/shared\\_of/reports/Evaluating-OFTs-work/oft1079.pdf](http://www.of.gov.uk/shared_of/reports/Evaluating-OFTs-work/oft1079.pdf)

283. Furthermore the imperfect information aspects, whereby the cost to consumers of gaining information about their rights could be significant, suggest that that consumer welfare could be improved should consumers increase their consumption of certain beneficial goods or reduce their consumption of less beneficial goods (for example goods that do not meet the consumer's expectations).
284. However there is significant pressure on government funding which emphasises the ever present requirement to maximise the cost-effectiveness of any publicly-funded activity.
285. Efforts have already been made to realise efficiencies where possible – for example, the OFT have already delivered substantial efficiency savings through its management of Consumer Direct, with running costs around 31% lower than in 2006, when the OFT took responsibility for the service.<sup>18</sup>
286. The scope for further efficiency savings through existing structures may be limited. Another route for further savings, and significant increased benefits to the public, could be achieved through rationalisation of the relatively complex institutional architecture. The case for which is supported by the evidence about low levels of consumer awareness for certain consumer advice bodies (for example Consumer Focus) compared to others (Citizens Advice).

### Objectives

287. The objectives of Government policy in the consumer landscape review are
- strengthen the front line of consumer empowerment and protection
  - reduce the complexity of the consumer landscape
  - deliver consumer services more cost-effectively and consistently.
288. This particular reform should support each of the above objectives. It will focus resources on Citizens Advice with its successful network of bureaux. As a result consumers should have improved access to the necessary information and advice they need to exercise their rights effectively, delivered by organisations with a strong front-line presence. This should help to reward fair-dealing businesses and support economic growth.

## Options identification

289. Three options to simplify and improve consumer information, education and advice three options were identified:
- Option 1: Streamline public funding and focus resources on the Citizens Advice service;
  - Option 2: Streamline public funding and focus resources on Consumer Focus, or
  - Option 3: Cease public funding for information, advice and education (discarded)

## Discarded options

### Option 3: Cease funding for information, advice and education

290. Under this option, information and advice provided by Consumer Direct and OFT consumer education responsibilities would be abolished, leaving the provision of these services to private sector organisations.
291. This option would entail the greatest level of savings to the taxpayer, equivalent to the overall spending on OFT consumer education and information activities and the cost of running Consumer Direct – estimated to be £10.8m per year.<sup>19</sup>
292. However, if Government funding were removed, consumers would lose a key source of impartial advice and information that currently helps a lot of consumers to solve existing problems or prevent getting into trouble. For example, the OFT have estimated that the consumer detriment saved as

<sup>18</sup> In addition, customer satisfaction levels have remained high at 83 per for the last three financial years

<sup>19</sup> The cost of running Consumer Direct in 2011/12 is estimated to be £8.8m and the OFT funding on education and information activities is estimated to be around £2m

result of Consumer Direct work is around £129 million per year<sup>20</sup>, equivalent to around 2% of overall consumer detriment. Should a third party such as a charity try to replicate this provision it would be very costly to build such a service from scratch.

293. In addition, Trading Standards and other public sector organisations, including policy-making institutions such as BIS, would also lose access to an invaluable source of market intelligence data which currently helps to inform many of their activities. A lack of publicly-provided alternative information and/or advice services would also be likely to leave unmet consumer demand for advice and information, which the private/third sector could not fulfil (e.g. through consumer feedback loops or comparison websites). Certain groups of consumers are likely to remain unserved, such as the vulnerable (e.g. those without access to the internet or who are unable to take steps to pursue redress when they have suffered problems).
294. Furthermore, this option would be inconsistent with Government's objective of strengthening frontline consumer empowerment and protection, as set out in the consumer empowerment strategy published in April 2011.<sup>21</sup> Crucially, it would also undermine the Government's Growth Strategy, in which consumer empowerment plays a key role.<sup>22</sup> Abolishing funding for consumer information, advice and education is likely to reduce consumer confidence and fewer empowered consumers in the economy, resulting in lower economic activity. For example if consumers become risk-averse, there will be an impact on purchasing decisions and a move away from higher-value or innovative products. Additionally, if companies who deceive customers or deliver unsatisfactory goods and services are allowed to operate without challenge, honest businesses are undercut and do not obtain the revenue to invest in further innovation and better customer service. The process of innovation and investment by consumer-facing business in a competitive market is an important driver for the economy and if the correct incentives are missing then business cannot effectively deliver growth. Over time, international competitiveness will be affected and fair competition undermined.
295. Finally, no stakeholders – including both business and consumer groups – have suggested such an option would be desirable or should be considered. Therefore, this option has not been developed further.

## Options analysis

296. The remaining two options were selected for further analysis and were compared against the 'do nothing' option – that OFT (or successor) would continue to provide information and advice, including through Consumer Direct, and the OFT would retain its current funding for consumer education and information.
297. Of the two options, option 1 (focus all on the Citizens Advice service) is the preferred option as:
- It will strengthen frontline consumer protection by forging a stronger link between the activities of The citizens advice service and provision of information, advice and education. The Citizens Advice brand is much better known to consumers than Consumer Direct. And the Citizens Advice Service expect to increase the volume of calls over time compared to Consumer Direct.
  - It will reduce the complexity of the consumer landscape.
  - It will create opportunities for substantial synergies in data and IT infrastructure, as detailed below.
  - This option was strongly supported by most respondents to the consultation. There was widespread agreement that the current landscape of information and advice was confusing for the consumer and should be simplified. Most respondents also agreed with the Government's plans to transfer OFT's role, including the Consumer Direct service and the Consumer Focus Extra Help unit to the Citizens Advice service.
298. Option 2 (focus all on Consumer Focus) is not preferred as it would not achieve the objectives for intervention in this area.

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<sup>20</sup> This estimate does not include the benefits from dealing with complaints relating to energy and postal sectors.

<sup>21</sup> [http://www.offt.gov.uk/shared\\_offt/annual\\_report/2009/hc301-annual-report2009-10.pdf](http://www.offt.gov.uk/shared_offt/annual_report/2009/hc301-annual-report2009-10.pdf)

<sup>21</sup> <http://www.cabinetoffice.gov.uk/sites/default/files/resources/better-choices-better-deals.pdf>

<sup>22</sup> [http://cdn.hm-treasury.gov.uk/2011budget\\_growth.pdf](http://cdn.hm-treasury.gov.uk/2011budget_growth.pdf)

- it would not strengthen frontline consumer protection because the Citizens Advice service would remain a separate and well regarded organisation that consumers would continue to turn to
- It would not reduce complexity of the consumer landscape.
- It would not enable benefits in the synergies of data sets and IT infrastructure which location in the Citizens Advice service would secure.

## **Option 1: Streamline public funding and focus resources on the Citizens Advice service**

### 299. For **consumer information and advice**

- The resources for the provision of a consumer contact service (currently provided by OFT through Consumer Direct) would be transferred to the Citizens Advice service<sup>23</sup>.
- Consumer Focus's Extra Help Unit will be transferred to Consumer Advice Scotland. Extra Help Unit provides advice to vulnerable consumers in energy and post sectors and energy consumers who have been disconnected or have been threatened with disconnection.

### 300. For **consumer education**

- The resources for awareness-raising/education activity would be transferred from OFT to the Citizens Advice service, as well as education of consumers (including resources currently used by the OFT for providing educational materials to Trading Standards).
- The Citizens Advice service plan to develop a simple and single point of contact for all consumers on information, advice and education from a highly-recognised and trusted provider. The Citizens Advice service plan to build on their existing infrastructures, which include web, phone and face-to-face services.

#### *Online*

301. The Citizens Advice service will build on its already highly-regarded public and adviser-focused websites, to develop a more user-focused website replacement. This will include improved, expanded content and interactive online tools to help people identify the right information and actions to resolve their problems. The website will have both UK-wide information, as well as content specific to England, Wales and Scotland.

#### *Telephone/Contact centres*

302. In England and Wales, Citizens Advice will procure call centre capability, which will work alongside their virtual call centre. There will be a single telephone number covering England, Wales and Scotland. In addition to telephone services, the contact centres will also offer information and advice through email and live text chat.

#### *Face-to-face*

303. The Citizens Advice service will continue to offer services throughout England, Wales and Scotland from bureaux locations and a wide range of community outreach locations. Services will be offered as both drop-in sessions and pre-booked appointments, and they will develop the ability for customers to book appointments online or by phone. This should offer a consistent, high-quality core service with additional services relevant to local need and availability of resources.

## **Costs**

### *Transition costs to the Citizens Advice service of providing a consumer contact service (such as Consumer Direct)*

304. The transition cost of the transfer of Consumer Direct has been calculated by Citizens Advice who will project manage the transfer. The costs have been examined by BIS Finance and BIS is satisfied that it provides value for money. These figures are not estimates and are the contractual

<sup>23</sup> Only some of the funds for Consumer Direct are derived via legislation (on the regulated sectors). Most of the funds are from BIS and not related to a legislative change.

amounts that BIS has agreed with Citizens Advice. BIS is funding these costs and a summary of these costs is shown in the table below.

305. The transitional funding will provide a new case handling system which integrates with Trading Standards offices and Citizens Advice Bureaux, improvements to infrastructure to receive the new system, improvements to online help and advice to consumers and management of the change programme.

**Table: Cost of transferring and set up of Consumer Direct to CitA**

£m	2011/12	2012/13
1. Case handling system and integrating the ICT infrastructure	2.7	0.8
2. Online portal	0.7	1.0
3. Contact centre dry-running (Feb – March 2012)	1.0	0
4. Enabling bureaux hubs	1.3	1.0
5. Transition team (programme management capacity)	1.2	1.1
<b>Sub-total</b>	<b>7.0</b>	<b>3.9</b>
Redundancies	1.0	1.6
VAT on running costs	0	1.5
<b>Total</b>	<b>8.0</b>	<b>7.1</b>

*Transition costs of transfer of OFT staff<sup>24,25</sup>*

306. Three OFT staff work on information, advice and education. If all three transferred we assume a one off pension top up cost of £80k for each staff (total £240k) and on going additional employer contributions of 28.7% of the average £40k salary or £11.5k per year (total £34.5k per year)<sup>26</sup>.

307. Analysis of OFT length of service and salary data suggests that the average redundancy payment would be £44.6k. For 3 staff this would amount to a £134k redundancy cost.

**Transition cost** pension top up of  $3 \times 80k = £240k$

**Ongoing cost** of additional employer contributions of  $3 \times 0.287 \times 40k = £34.5k$  per year.

*Transition costs of transfer of the Extra Help Unit (EHU) from Consumer Focus to CAS*

For the transition cost of 18 EHU staff we assume they receive the Consumer Focus average salary of £36k, the pension transfer cost of £80k and additional ongoing employer pension contributions of 28.7%. We assume 50% of staff have Nuvos pensions and the remainder the PCSPS (which is the Consumer Focus average in salary data provided to BIS). This yields the following costs for EHU transfer

**Transition cost** pension top up of  $(18 \times 0.5) \times £80k = £720,000$

**Ongoing cost** of additional employer contributions of  $18 \times £36k \times 0.287 = £186k$  pa.

*Logistics*

308. OFT estimated the logistical cost of moving staff, equipment and furniture at £500 per head. In addition Citizens Advice may or may not have to purchase additional IT equipment at its London and

<sup>24</sup> Pension transfer and redundancy costs are transfers of cash and are not economic costs. A similar example is the potential transfer of pension liabilities from Royal Mail to the state which has been considered a transfer.

<sup>25</sup> The transferred staff will continue to be paid for from the relevant BIS funds that will transfer from one organisation to another hence there are not budget savings from transferring staff.

<sup>26</sup> Using evidence of two recent examples of staff transfer from the civil service to private organisations we assume that a one off £80k top up of each pension would be necessary for all staff with the Principal Civil Service Pension (PCSP) (about 50% of Consumer Focus staff or 47.5 staff). In addition, using the example of a Prudential Insurance scheme used in these circumstances, we assume that employer pension contributions would increase by 28.7 percentage points for all staff (not just PCSP as the contributions rates are the same).

Scotland HQs although the addition of 20 staff is a relatively small proportion of the HQ. We estimate this at an average of £500 per head. 18+3 staff \* £1000 = £21k. This cost will be a tiny proportion of the cost to BIS (redundancies, pension transfers, Consumer Direct set up cost) and has not been estimated in further detail as attention has focused on the most significant costs.

#### *Other Ongoing costs*

309. The ongoing cost of the telephone line and associated activity will be the same as prior to the transfer. Hence there are no additional ongoing costs.

#### *Familiarisation costs associated with new landscape for consumers and businesses*

310. As the source of information education and advice will simply switch from one organisation to another there will be no significant familiarisation costs. Citizens Advice is already by far the best-recognised source of information and advice in this area. With regards to online and telephone enquiries, consumers will be re-directed to the new site and the telephone number would remain the same. Therefore, we believe that there costs are zero or negligible. Neither business nor consumer groups raised the issue of familiarisation costs in response to the consultation.

### **Benefits**

- **Single point for all non-financial consumer advice, information, education**

311. Streamlining information and advice into one body will provide clarity for consumers and promote a simple message that for all non-financial information and advice: go to Citizens Advice. As a result, consumers should be able to access the information and advice they require and realise the benefits of acting on this more quickly. This increase in consumer empowerment should help drive competition and therefore growth in the economy. Focusing resources on one body should promote efficient resource allocation, by preventing the duplication of information and one body having an holistic approach to information and advice provision be it online, via telephone or in face to face in bureaux.

- **Harness all consumer complaints to improve advice, information, education**

312. Transferring Consumer Direct to the Citizens Advice service will bring together first-tier complaints and advocacy, which should result in significant benefits: consumer experiences and complaints data will be more readily accessible by the body responsible for consumer protection, aiding better prioritisation of issues and policy development. Similarly, transferring OFT's awareness-raising activities to the Citizens Advice service should benefit consumers by integrating these activities with information and advice provision across the Citizens Advice Bureaux network, which helps to achieve the first of the three objectives outlined earlier (i.e. strengthening the frontline of consumer empowerment and protection). Transferring OFT's support for LATSS education activities to the Citizens Advice service and LATSS themselves, with governance arrangements involving the Citizens Advice service and the Trading Standards Institute, should aid collaboration between these organisations.

- **Harness all consumer complaints to improve advocacy**

313. The separate but related policy to transfer consumer advocacy from Consumer Direct to the Citizens Advice service will also benefit from the use of complaints data to highlight and evidence markets where intervention may be necessary.

314. These changes should lead to a more efficient use of limited resources, which should result in reduced costs to Government, in line with the third objective outlined earlier – i.e. delivering consumer services more cost-effectively.

#### *Reduction in consumer detriment*

315. Consumer Direct (CD) currently deals with 1.7 million contacts by phone, email and online chat services. Under its proposed model, the Citizens Advice service forecasts that they will be able to help an additional 1.06 million consumers (i.e. a total of 2.86 million consumers). It is reasonable to assume that the service provided by the Citizens Advice service is similar in effectiveness to Consumer Direct in solving problems (with 26% of all contacts resolved fully, which would have not have occurred without input from Consumer Direct)<sup>27</sup>, which would result in an extra 276,000

<sup>27</sup> 51% of CD contacts are fully resolved; half of these could not have their issues resolved without CD input.

consumer issues being fully resolved because of the Citizens Advice service<sup>28</sup> input compared to the baseline.

316. Given the variability in problems encountered by consumers, it is difficult to generalise about the level of individual detriment suffered in each case. The most recent study on consumer detriment, published by the European Commission<sup>29</sup>, found that the overall (mean) average for UK consumers was €239 (£205<sup>30</sup>) and the median was €11 (£9).<sup>31</sup> Given that the mean is likely to be skewed by a few very large outliers, we have used the median figure as a basis for estimating the saving associated with resolving issues for an additional 276,000 consumers; which would suggest annual savings of the order of **£2.5m per year**.
317. The (mean) average above is supported by estimates from other studies – for example, previous research by the OFT found an average (mean) value for detriment per problem suffered of around £250.<sup>32</sup> Another recent study by Consumer Focus in relation to problems suffered as a result of unfair commercial practices found that the average value of the problem was £175.<sup>33</sup>
318. If we were to use the evidence on the average values of detriment presented above - from the OFT, European Commission and Consumer Focus research of £250, £205 and £175 respectively - this would suggest an annual saving of around £50m per year or more. Although this estimates appears substantial, it is only equivalent to 1-2% of total UK consumer detriment suffered each year.<sup>34</sup>
319. It is, however, likely that those who take action as a result of encountering problems with goods or services they have purchased are likely to have suffered a greater level of detriment – for example, a recent European Commission study found that almost one-third of consumers who had encountered problems but taken no further action felt that the ‘sums involved were too small’.<sup>35</sup> This is exemplified by recent work conducted by the OFT, which found that the median financial benefit from having a general consumer problem resolved by Consumer Direct was much higher than the figures presented above, at £584. As a result, OFT have estimated that the consumer detriment saved as result of CD intervention is around £129 million per year, which is equivalent to around 2% of total UK consumer detriment.<sup>36</sup>
320. In addition, the Citizens Advice service estimate that the enhanced on-line and call centre infrastructure would enable it to also substantially enhance its wider advice services. The Citizens Advice service initially estimate that these greater efficiencies should enable it to handle several million more consumer enquires per year, covering areas such as debt advice, advice on benefits entitlements and social housing.

321. This quantification is likely to be a transfer from business to consumer and not an economic benefit. It therefore has a net impact of zero on the NPV. However, given that the provision of information etc to consumers addresses market failures, including imperfect information and public goods, it is likely that there will be non-transfer economic benefits from this policy (not quantified).

### Summary

322. Transferring all consumer information, advice and education to Citizens Advice provides significant scope to harness the benefits from combining all consumer advice into one well known body that consumers already turn to for a variety of other problems. Consumers would know that if they need advice, information etc they should go to Citizens Advice. The data on consumer issues

<sup>28</sup> Assuming Citizens Advice could fully resolve the same number of contacts as CD and the same proportion of contacts who could not have resolved their issue without CD input.

<sup>29</sup> Special Eurobarometer 342 (Consumer empowerment), European Commission (2011)

<sup>30</sup> Using average sterling-Euro exchange rate for 2010 (source: Bank of England, series code XUAAERS)

<sup>31</sup> More detailed data was available on the distribution of financial losses suffered as a result of problems encountered by UK consumers: 37% suffered no loss (€0); 14% suffered a loss of €1-20; 10% a loss of €21-50; 9% a loss of €51-100; 9% a loss of €101-200; 7% a loss of €201-500; 4% a loss of €501-1,000; 2% a loss of €1,001-2,500; 1% a loss of €2,501-5,000 and 1% greater than €5,000

<sup>32</sup> [http://www.offt.gov.uk/shared\\_offt/reports/consumer\\_protection/oft992.pdf](http://www.offt.gov.uk/shared_offt/reports/consumer_protection/oft992.pdf). This also included information on distribution of financial loss associated with problems suffered by consumers: 55% of all consumer problems resulted in a financial detriment of £5 or less, with 28% reporting detriment between £5 and £100, 14% a detriment between £100 and £1,000 and 4% a detriment exceeding £1,000

<sup>33</sup> ‘Waiting to be heard’, Consumer Focus (2010)

<sup>34</sup> The OFT estimated total consumer detriment in the UK to be £6.6 billion per annum

<sup>35</sup> Flash Eurobarometer 299 (2011)

<sup>36</sup> This estimate does not include the benefits from dealing with complaints relating to energy and postal sectors.

[http://www.offt.gov.uk/shared\\_offt/annual\\_report/2009/hc301-annual-report2009-10.pdf](http://www.offt.gov.uk/shared_offt/annual_report/2009/hc301-annual-report2009-10.pdf)



can be drawn together to improve consumer advocacy also. In addition the capacity to advise consumers via Consumer Direct will be increased.

323. While there are some significant transition costs the Government believes they are justified by the benefits to consumers (reduction in detriment), additional benefits to consumer advocacy and the impact of empowered consumers on competition, innovation and eventually growth.

**Option 1: Transfer all consumer information, advice and education to Citizens Advice**

Costs

- One off cost of Consumer Direct set up £15m
- One off costs pension transfer £1m (transfer payment)
- Ongoing costs additional employer contributions £220k per year (transfer payment)

Benefits

- Additional consumers resolving issues £2.5m per year (transfer benefit)
- Harness more consumer information in one place (unquantified)
- Wider benefits to competition, innovation and growth from empowered consumers (unquantified)

NPV

- -£14.5m
- (Including the consumer benefits the NPV is +£6m)

## **Option 2: Streamline public funding and focus resources on Consumer Focus**

324. An alternative would be to focus public funding and resources (including the provision of a consumer contact service, currently provided through Consumer Direct) on Consumer Focus. This option, viewed in isolation, would result in some modest simplification of the consumer landscape.
325. Transferring awareness-raising activities currently undertaken by the OFT to Consumer Focus should increase the brand awareness of Consumer Focus amongst consumers, which may help to strengthen the frontline of consumer empowerment and protection (the first of the three objectives outlined earlier).
326. The benefits are, however, likely to be significantly lower than under Option 1, due to the relative strength of the Citizens Advice brand awareness compared to Consumer Focus, and the fact that it does not enable synergies in IT infrastructure which facilitate the expansion in reach to the consumer community under Option 1.
327. Finally, this option is incompatible with the preferred option in the advocacy section, which would result in Consumer Focus being abolished.

### **Costs**

#### *Transition costs to Consumer Focus of providing a consumer contact service*

328. The transition costs of providing a consumer contact service through Consumer Focus are likely to be lower than those associated with the Citizens Advice service providing such a service. This is because this option would not involve the integration of the contact service with the the Citizens Advice service existing case management and information system nor would a new case handling system be required. Hence it does not offer the same synergies with general advice services which facilitates the expanded reach and depth of the service under Option 1. And it means that the additional information gathered from the contact service cannot be harnessed to improve information made available to CAB and vice versa.
329. If we assume that the costs of transferring Consumer Direct to Consumer Focus is the same as for CitA, but without the new case handling system (£3.5m) and 'enabling bureaux hubs' (£2.3m), the transition one off cost is estimated at around £10m.

#### *Transition costs of transfer of OFT staff*

330. As Consumer Focus is part of the civil service we assume that there are no staff transition costs. The 3 OFT staff would simply transfer from OFT to Consumer Focus.

#### *Logistics*

331. We assume that the transfer of 3 staff does not generate significant logistical or IT costs.

#### *Ongoing costs*

332. The ongoing cost of the telephone line and associated activity would be the same as prior to the transfer. Hence there are no additional ongoing costs.

#### *Familiarisation costs associated with new landscape for consumers and businesses*

333. As the source of information education and advice will simply switch from one organisation to another there will be no significant familiarisation costs. With regards to online and telephone enquiries, consumers will be re-directed to the new site and the telephone number would remain the same. Therefore, we believe that there costs are zero or negligible. Neither business nor consumer groups raised the issue of familiarisation costs in response to the consultation.

### **Benefits**

334. The benefits would be significantly lower than in Option 1 because there would still be two sources of consumer advice – the Citizens Advice service and Consumer Focus rather than one. Integration of intelligence or consumer detriment in online and call centre advice capabilities would not extend to those requests coming in to Citizens Advice Bureaux, unless an efficient forwarding mechanism were also developed at further cost.

335. There would be no increase in the capacity of Consumer Direct so we would not expect the volume of contacts with consumers via Consumer Direct to increase.

### Summary

336. This option fails to meet a number of objectives including improvement of cost effectiveness, improvement of frontline advice and simplicity.

### **Option 2: Transfer all consumer information, advice and education to Consumer Focus**

#### Costs

- One off costs cost of setting up contact line/internet less than £10m

#### Benefits

- More consumer information in one place but not as much as for option 1 (unquantified).

#### NPV

- £-9.6m

## Risks

### Option 1

337. A risk in transferring additional responsibilities to the Citizens Advice service is that sufficient knowledge and expertise is not built up in providing information, advice and education to consumers. However, Citizens Advice Bureaux already exercise a significant role in the consumer landscape in providing information and advice to consumers; indeed, this provision is one of their core functions, at which they are particularly proficient.

338. Moreover, in taking on further responsibilities on information and advice, the Citizens Advice service will have an additional IT contract to manage, and will also need to be proficient at procuring the call centre services for Consumer Direct. This risk is being mitigated by close working between the Citizens Advice service and OFT to understand the requirements of the new service<sup>37</sup>, detailed planning within the service on a GB-wide delivery models, advice from Trading Standards community and BIS as well as ICT expertise from their existing strategic IT provider. For these reasons, we consider the risks in relation to transferring responsibilities for consumer information, advice and education to the Citizens Advice service to be low.

### Option 2

339. Similarly to Option 1, under this option there would be a risk in transferring additional responsibilities to Consumer Focus that sufficient knowledge and expertise is not built up in providing information, advice and education to consumers. Although Consumer Focus already provide this in relation to energy and postal sectors, this risk would be higher compared to Option 1, due to the comparatively broader range of sectors that the Citizens Advice service currently cover, and the size of the organisation.

340. The most significant risk is the low consumer recognition of Consumer Focus which raises the possibility that the number of consumers helped may actually fall. For example, Citizens Advice claims a public awareness rating of 95%<sup>38</sup>, while unprompted awareness of Consumer Direct is only 1-2%<sup>39</sup>.

## Summary

341. The Government's clear preferred option is to streamline public funding for information, advice and education by focusing resources on the Citizens Advice service. The Government's intention is

<sup>38</sup> Source: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

<sup>39</sup> Source: OFT

that responsibility and resources for all such publicly-funded activity at the national level should transfer to Citizens Advice service.<sup>40</sup> The Government does not believe that the do nothing option (i.e. for current responsibilities in consumer information, advice and education, including Consumer Direct, to remain with the OFT or its successor body) is an appropriate choice, as this option would not help to achieve the objectives set out earlier. It would not strengthen the frontline of consumer protection and enforcement, nor help to reduce the complexity of the consumer landscape. It could also distract the CMA from its focus on competition.

342. Option 1 would provide significant benefits to consumers from the additional volume of concerns resolved (albeit transfers from business to consumer) as well as through the synergies of Consumer Direct and CAB where consumer data can be harnessed to improve advice, education and also advocacy.
343. Option 2 (streamlining public funding and focusing resources on Consumer Focus) would not achieve the objectives for intervention in this area with anything like the same degree of potential efficiency gain or expansion in reach and effectiveness. In addition, such an approach would be inconsistent with the Government's preferred option in relation to advocacy (transferring Consumer Focus functions to the Citizens Advice service), which would make Option 2 impractical.
344. Although option 1 involves significant transfer costs the scope for consumers to benefit directly through additional concerns resolved and the synergies possible from the well known and respected Citizens Advice service offering all consumer advice, information and education are significant.

## One In One Out

345. The proposal removes an existing function of the OFT. Hence there is a change to legislation. In its place Citizens Advice will provide similar information, education and advice. Citizens Advice will be compensated for these activities via a grant. The measure will have a zero net cost on Citizens Advice. Therefore the combined assessment of this measure is an OUT with zero net cost to business.

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<sup>40</sup> Except in the field of financial literacy, consumer finance and most public services, including health

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b></p> <p>This impact assessment includes a commitment to review the proposed changes 3 years after implementation (these changes are expected to be fully implemented by 2015) – the review is expected to be undertaken by 2018.</p>
<p><b>Review objective:</b></p> <p>The aim of the review would be to assess whenever or not the changes to the consumer landscape have achieved the objectives set out in this impact assessment – i.e. strengthen the front line of consumer empowerment and protection, reduce the complexity of consumer landscape and for consumer services to be delivered more cost-effectively.</p>
<p><b>Review approach and rationale:</b></p> <p>The review would evaluate the effectiveness of the changes within this impact assessment. The review will incorporate stakeholders' views that will include consumers, business groups, LATSS, and Citizens Advice. Government spending on consumer services will be monitored.</p>
<p><b>Baseline:</b></p> <p>The OFT study on consumer detriment in the UK shows that overall detriment in 2008 was £6.6bn. This will be monitored in the future for the purposes of comparison. Survey data shows the awareness among consumers of their rights. Also, the current level of expenditure on consumer services by the government is known, and can be used a future benchmark.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Increased volume of consumer contact, consumers are more empowered and the level of consumer detriment decreases, likely to be as a result of increased awareness of their rights and confidence in exercising them. In addition, consumer services are delivered at a lower cost to government.</p>
<p><b>Monitoring information arrangements:</b></p> <p>Feedback from businesses, consumers groups, LATSS and Citizens Advice will be achieved through regular engagement. The transition costs will be recorded during the implementation stage and Government will monitor the ongoing costs of the new organisations via annual reports and management information. More general information about the conditions facing consumers can be collected through surveys and the European Commission's Consumer Market Scoreboard, currently published bi-annually.</p>
<p><b>Reasons for not planning a review:</b></p> <p>N/A</p>

## Annex 1: Specific impact tests

### Equality Impact Test

#### *Consumer advocacy/consumer information, advice & education*

346. Changes to the consumer landscape will result in some bodies being abolished and other organisations being redesigned to incorporate new functions and powers. A reallocation of resources and powers towards Citizens Advice, particularly in relation to consumer advocacy and consumer information, advice and education, could have a positive impact on various protected groups.

Characteristics	UK population (%)	Citizens Bureau clients (%) <sup>1</sup>
Female	51 <sup>2</sup>	55
Disabled	5 <sup>3</sup>	25
Age (65+)	17 <sup>4</sup>	10
Single parents	10 <sup>5</sup>	16
Ethnicity	11 <sup>6</sup>	15

347. Recent data<sup>7</sup> shows that certain groups are over-represented among Citizens Advice Bureaux clients, such as females, disabled households, single parents and clients from an ethnic minority background. Therefore, these clients may be positively affected by the focus of resources on Citizens Advice service. However, older persons (defined here as aged 65 and over) are under-represented among CAB clients and may therefore be slightly adversely affected. However, as Citizens Advice is predominantly a face-to-face advice service, this may favour older households that are less likely to use the internet.<sup>8</sup>

348. In addition, the current statutory obligation on Consumer Focus to investigate complaints made by vulnerable consumers in the electricity, gas and postal services sectors (currently fulfilled by the Extra Help Unit within Consumer Focus) will be transferred to Citizens Advice, so this feature of the current consumer landscape will be preserved.

#### *Consumer code approval scheme*

349. As the code will be administered by the TSI in a sufficiently similar fashion to the OFT we do not believe that there will be a significant equality impacts.

#### *Consumer enforcement*

350. In terms of the effect on protected groups associated with moving some OFT functions (and associated funding) to the Trading Standards network, there should not be any adverse impacts as we would anticipate an increase in enforcement cases benefiting all consumers. There should also be a decrease in the 'enforcement gap' identified earlier. This would mean that the number of regional enforcement cases being undertaken should increase, relative to the current situation. While there is no data on the types of consumer affected by the enforcement gap it is likely that those consumers are relatively vulnerable as cases would include small but cross local authority firms that might target vulnerable consumers by, for example, door step selling.

<sup>1</sup> Source: Advice Trends

<sup>2</sup> 2011 data; source: Social Trends No. 40 (ONS)

<sup>3</sup> Based on claimants of Disability Living Allowance in 2008/09; source: Social Trends No. 40 (ONS)

<sup>4</sup> 2011 data; source: Social Trends No. 40 (ONS)

<sup>5</sup> 2009 data; source: Social Trends No. 40 (ONS)

<sup>6</sup> [http://www.statistics.gov.uk/downloads/theme\\_labour/lalm-statistical-indicators-jan11.pdf](http://www.statistics.gov.uk/downloads/theme_labour/lalm-statistical-indicators-jan11.pdf)

<sup>7</sup> Advice Trends, July-Sept 2010 ([http://www.citizensadvice.org.uk/advice\\_trends\\_2010-11\\_q2.pdf](http://www.citizensadvice.org.uk/advice_trends_2010-11_q2.pdf))

<sup>8</sup> 60% of those aged 65 and over have never accessed the internet (source: <http://www.statistics.gov.uk/cci/nugget.asp?id=8>)

## **Competition Test**

351. The proposals within this impact assessment will not (directly or indirectly) limit the range of suppliers or reduce their ability to compete. Proposed reforms to the enforcement landscape could be pro-competitive, by increasing resources allocated to removing rogue firms, which should improve consumer confidence in markets and reward fair-dealing businesses.

## **Small Firms Test**

352. The changes proposed within this impact assessment will affect all law-abiding firms equally. Therefore, we do not believe that there will be a disproportionate impact on smaller firms. Improved co-ordination of consumer enforcement and the other proposed changes to consumer landscape should empower consumers, which will result in markets operating more efficiently.

## **Other Impact Tests**

353. After initial screening, we do not believe that there will be any impacts in the areas of greenhouse gas, wider environmental issues, health and well being, human rights, rural proofing and sustainable development.