

Briefing

Better protected?

The consumer landscape reforms

Consumers need to be able to have confidence that consumer law is being enforced and that there is an effective deterrent against unfair and unsafe practices. The consumer landscape reforms, affecting the organisations and the responsibilities for consumer enforcement, began in 2012 and are still bedding down. It is already clear that although they have brought some positive changes, the greater reliance they place on local authority Trading Standards Services (TSS) at a time when many local authorities have dramatically reduced their resourcing for Trading Standards work risks undermining the basic consumer protection many people expect. Further reform is therefore still needed.

The main changes

The main changes that were brought in to make the system more efficient and strengthen the effectiveness of enforcement of consumer rights can be summarised as:

- The creation of the Competition and Markets Authority (CMA) by merging the consumer enforcement work of the Office of Fair Trading (OFT) with the competition enforcement work of the Competition Commission (CC).
- More emphasis on Local Authority Trading Standards Services (TSS) as the means to deal with many national issues previously dealt with by the OFT with the creation of the National Trading Standards Board (NTSB) to co-ordinate national work.
- A more formal role for the Trading Standards Institute (TSI) in the development of industry guidance.
- The creation of the Consumer Protection Partnership (CPP) to bring the main enforcement players together and identify and prioritise areas for action.
- A greater role for Citizens' Advice Bureaux (CAB) in providing consumer advice through the Consumer Service Helpline and handling consumer complaints.

Positive aspects

Although it is still early days, some aspects of the changes appear beneficial. The creation of the CMA, with a dual competition and consumer enforcement role, provides a new opportunity to ensure that markets work more effectively for consumers. The co-ordination mechanisms across national, regional and local enforcement could also improve through the creation of the CPP, provided it is able to take a strategic overview. The creation of the NTSB should, in principle, also mean an improvement in local

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authority co-ordination on key enforcement issues, including e-crime, marketing scams and illegal money lending.

Potential risks

The reforms have, however, failed to tackle the main issues affecting local authority enforcement and are instead likely to exacerbate them. Greater reliance is being placed on TSS for national work when there is clear evidence that they are already struggling to cope with their local work. Under the new system, TSS are intended to pick up more routine national work that previously would have been dealt with by the OFT. The CMA will be focusing on the more precedent-setting, market-wide cases, while the NTSB will co-ordinate and allocate funding to local authorities to fill the gap. TSI research shows that some TSS have seen up to 80% cuts in recent years and more are likely. The average budget for TSS across England and Wales fell by 21.7% between 2010-11 and 2013-14.

A long term vision

There is therefore still a need for central and local government to think longer-term about how an effective system can be delivered for consumers. The reforms need to be enhanced, particularly in relation to ensuring the effectiveness of TSS. Trading Standards work is crucial for consumer protection, but often taken for granted by consumers and under-estimated by local councillors when identifying areas for cuts. As a result, the scope of the work that they are able to do is becoming more limited. It is also going to become more difficult to sustain the level of expertise needed for the many areas of consumer law that Trading Standards Officers cover - 240 pieces of consumer legislation in total and everything from doorstep crime to cosmetic safety and weights and measures.

Adaptation and experimentation

Local Authorities are adapting in different ways. Some parts of the country do have good, reasonably well resourced Trading Standards services; others are allowing the service virtually to collapse. Some local authorities are sharing services (eg. Hammersmith and Fulham, Westminster and Kensington and Chelsea). There are also examples of services being contracted out (eg. North Tyneside and Barnet). In Scotland, options for greater sharing and potentially a national service have been under consideration and in Wales, the 22 authorities are experimenting with reorganisation of Trading Standards work into six regions.

Action needed:

- **Effective use of limited resources**
 - **Greater sharing of Trading Standards resourcing and expertise across local authorities needs to be explored, potentially through a regional model of delivery.** This would provide consumers with greater assurance of a basic level of service wherever they live. By working together at a regional level, local authorities are more likely to ensure a 'critical mass,' balancing the benefits of local knowledge and the specialist investigative skills and expertise needed to police complex markets and anticipate high risk areas.



- **The Department for Business Innovation and Skills (BIS) and the Department for Communities and Local Government (DCLG) need to map out the issues facing consumer enforcement.** The level of resourcing, skills and expertise required at local, regional and national levels to keep abreast of market developments and ensure an adequate level of consumer protection needs to be determined and the impact of proposed legislation better assessed.
- **The role and status of the NTSB should be enhanced.** This is not a substitute for wider reform, but would help ensure that there is effective national co-ordination and national expert teams on a wider range of issues.
- **Independent and efficient enforcement**
 - **Effective intelligence gathering must be a greater priority,** including better analysis of market data and key trends, emerging markets, opportunities for fraud and scams and the development of new technologies - as well as effective use of complaints data. The Consumer Protection Partnership should develop its strategic leadership role and an effective system should be implemented across the different enforcement bodies.
 - **A full range of enforcement tools should be available to enforcement officers** - from provision of advice to businesses through to use of criminal sanctions when needed. This includes ensuring effective use of the enhanced consumer measures that will be provided in the Consumer Rights Bill and should help improve consumer compensation. Greater use of administrative fines to ensure corrective action for minor breaches is also needed.
- **A consumer-focused CMA**
 - **The potential for a more effective system of consumer protection created by the CMA should be ensured** through effective consumer involvement in its work. The CMA needs should take a lead where national issues are not being adequately addressed by TSS/ NTSB, taking a broad, rather than narrow interpretation of its remit to deal with market-wide and precedent-setting issues.
- **Reliable consumer advice**
 - **The process of rationalising consumer advice through the CAB must be accountable and result in consumers receiving the advice that they need** as part of a system that responds in a timely and effective way to their complaints. The intelligence gathered must feed through to Trading Standards (and the wider CPP) in order to identify problems and priorities.

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