

UNITED KINGDOM

Annual Report on Consumer Policy Developments 2001

Legislative Developments

Enterprise Bill

The main development in the area of consumer policy has been the work on the Enterprise Bill. In November 2001, the UK Government announced its intention to introduce an Enterprise Bill during the 2001 – 2002 Parliamentary session. There are three principal themes to the Bill – improving the protection offered to consumers; reform of the competition regime; and modernisation of the law on insolvency.

Reforms on the consumer side will include the implementation of proposals to create a new statutory board for the Office of Fair Trading (OFT) that were first published in a consultation document in September 2000. This change will widen the expertise available at the top of the OFT, helping to place consumer interests at the heart of consumer policy. It will also strengthen the independence of the OFT and increase the transparency of its actions and decision-making.

The OFT will also be given new functions aimed at raising consumer awareness – including a duty to explain and promote the benefits of competition to consumers; and a power to educate consumers on all aspects of competition and consumer issues. New powers for the OFT to promote industry codes of practice will help consumers to recognise the levels of service that they should expect from companies. In addition, consumer groups are to be given the power to bring “super-complaints” to the OFT against markets that are not working in the interests of consumers.

The Enterprise Bill will also modernise legislation designed to protect consumers by extending the scope of the Stop Now Order Regulations – which provide for injunctions against traders who engage in unlawful conduct that is harmful to consumers collectively – to cover all consumer legislation that protects the economic interests of consumers.

Stop Now Orders (EC Directive) Regulations

The Stop Now Orders (EC Directive) Regulations 2001, implementing the EC Directive on injunctions for the protection of consumers’ interests, came into force on 1st June 2001. The regulations create a new enforcement regime to allow quick and effective action to protect consumers by empowering the OFT, Trading Standards Officers, sectoral regulators and other designated enforcement bodies to apply to the courts for Stop Now Orders. Areas of consumer law covered include misleading advertising, consumer credit, package travel, unfair contract terms, doorstep and distance selling and aspects of the supply of goods and services. Breach of a Stop Now Order or an undertaking given under the Regulations constitutes contempt of court, which is punishable by a fine and/or imprisonment.

Financial Services and Markets Act 2000 (FSMA)

On 1 December 2001 the Financial Services Authority (FSA) assumed its powers and responsibilities under FSMA. The FSA is now the single statutory regulator directly responsible for the regulation of deposit taking, insurance and investment business. The FSA has four statutory objectives of which two are explicitly consumer focused, ie promoting public understanding of the financial system and securing an appropriate degree of protection for consumers. Key aspects of firms' relationships with consumers are governed by conduct of business rules and standards set by the FSA, e.g. to help ensure that information provided to consumers is clear or that financial products purchased by consumers are suitable for their needs. The FSA works to help consumers acquire the knowledge, aptitude and skills necessary to become informed consumers, so that they can manage their financial affairs more effectively. It provides a consumer helpline, a consumer website, consumer education and generic advice, information about products and financial education.

In addition, the Financial Ombudsman Service (FOS) and Financial Services Compensation Scheme (FSCS) were established under FSMA. FOS provides a free and informal service for consumer complaints against trading financial services firms. For consumers it means an independent and user-friendly alternative to going to court when a firm is unable to resolve a complaint itself. The FSCS acts as a final safety-net for consumers. It can pay compensation to consumers who have claims against financial services firms that are insolvent.

Budget Allocation to Consumer Issues

In 2001/02, the Government contributed £22.7 m to consumer bodies (National Association of Citizens Advice Bureaux (NACAB), Citizens Advice Scotland (CAS), National Industry Consumer Councils, the Consumer Groups and Councils) of which £19.5 m went to NACAB and CAS.

Helping consumers get better information and advice

The Department of Trade and Industry plays a key role in supporting the provision of information and advice through its work with intermediary bodies, such as Trading Standards, the National Association of Citizens Advice Bureaux and consumer councils. The Department has undertaken a number of initiatives to further improve access to joined-up, quality-assured help.

Consumer Gateway

The Department maintains the award winning Consumer Gateway (www.consumer.gov.uk) that provides easy and intelligent access to the wealth of consumer advice and information available on the Internet. In November 2001, a new section focusing on Internet shopping was added as part of a wider campaign to increase consumer confidence in buying on-line.

Consumer Helplines

In 2001, the Department commissioned an independent evaluation of three local pilot consumer helplines, which had been set up to test different approaches to the provision of consumer advice via the telephone. During 2002 the focus will be on considering how best to translate the lessons learnt from the pilots into improved services right across Britain.

Consumer Support Networks

The Department launched the Consumer Support Networks in October 2000. By March 2001, 70 embryonic networks had been formed. Of these, 9 were fully functioning networks by March 2002. The Department has set a target of 70% coverage of Great Britain by fully operational networks by April 2003. The networks improve help and advice for consumers by getting organisations such as Trading Standards, Citizens Advice Bureaux and other providers of consumer advice and information to work together better for consumers.

A better deal for consumers

Tackling Consumer Problems

In July 2001, Melanie Johnson, the Minister for Consumers announced a review of the Consumer Credit Act and published a consultation paper. This set out the priority areas for the review, which included looking at: changes to the licensing regime to keep loan sharks out of the market; increasing protection for consumers against extortionate credit; regulating more credit agreements by increasing the Consumer Credit Act financial limit and reducing the number of exempt agreements; and enabling consumers to carry out credit agreements on-line. This work complements action the Government is already taking on tackling overindebtedness and providing advice to those consumers with debt problems. It is anticipated that the review will take about two years.

Mobile Phone Price Transparency

The DTI commissioned research, published in August 2001, into how easily consumers could get best value for money, and whether the format of presented information helped or hindered the process. The survey concluded that, taken as a whole, advice provided to consumers looking for a reasonable deal was helpful. This was tempered by the finding that consumers generally found written information provided by retailers to be opaque, unclear, unhelpful, or in some cases misleading. In addition, it was found that consumers were often driven by factors beyond price when choosing a deal. In particular they chose deals associated with the network that their friends and family already used, and chose pre-pay packages that gave them better control over phone budgeting.

Enhancing Consumer Safety

Safety Modernisation Projects

In 2001, the Government improved local co-ordination on home safety by funding and evaluating 12 safety modernisation projects, developed a web based home safety network and strengthened the capacity of two leading national safety organisations: Royal Society for the Prevention of Accidents; and the Child Accident Prevention Trust.

Safety Awareness Campaigns

The Government has been actively raising consumers' awareness of safety issues. 6 safety awareness campaigns were launched in conjunction with stakeholders and other government departments. Efforts were focused on where the Government could make the maximum impact in reducing home accidents. Themes covered Falls in the home by the elderly, Burns and Scalds in under 5s, DIY and Garden Safety and safe use of Fireworks.

A better deal for e-shoppers

The Government has taken steps to help ensure that consumers can shop online with confidence. Amongst other things, it has promoted codes of practice for internet retailers and, in this context, has encouraged the development of alternative dispute resolution (ADR) schemes to address shoppers' concerns when things go wrong. Recognising that people are increasingly buying from traders in other countries, the Government has been active in Europe and in the wider international arena on protection for consumers engaging in online purchases, and on cooperation between national enforcement authorities in the consumer field.

Codes of Practice for e-commerce

TrustUK (launched July 2000) was set up with Government endorsement by the Alliance for Electronic Business (AEB) and the Consumers Association to approve codes of practice for retail e-commerce. Since its launch TrustUK has achieved a lot; it now covers over 4000 e-commerce retailers. Government remains committed to developing self-regulatory approaches for e-commerce and more widely.

The TrustUK partners carried out a full review of TrustUK in 2001. They decided against fundamental changes to the structure of the Scheme.

There is growing recognition in the EU that self or co-regulation has a contribution to make to e-commerce. DTI promotes co-regulation in Europe and TrustUK continues to participate in stakeholder meetings organised by the Directorate General for Health and Consumer Protection (DG SANCO) to draft EU criteria for e-commerce codes. The Commission envisages bodies in each Member State, approving national or sectoral codes to a set of common EU criteria, along the lines of the TrustUK model.

Alternative Dispute Resolution

TrustUK will only approve codes that make provision for Alternative Dispute Resolution (ADR) (e.g. arbitration, ombudsmen). ADR offers low cost, user-friendly ways of settling disputes. The UK Government is working with other EU Member States to set up a **European Extra-Judicial Network (EEJ-Net)**, which will help consumers use ombudsman, arbitration and other schemes across Europe. The European Commission launched a pilot phase in October 2001, and plans for the network to be fully operational by the end of 2002.

European Community Regulation on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (the "Brussels Regulation")

The Regulation, which comes into force in March 2002, sets the rules on which EU Member State's court has jurisdiction in contractual and other disputes between litigants. It covers business to business and business to consumer disputes. Consumers will be able to sue at home in certain cases, where the trader directed his activities to the consumer's state. The Regulation will largely replace the 1968 Brussels Convention, which contains similar provisions.

In 2001 the Government consulted on a guidance note on the consumer provisions of the Brussels Regulations aimed primarily at business organisation, advice agencies and other bodies that deal with legal issues dealt with in the Regulations. This guidance document was published in March 2002.

Enforcement Cooperation

A big challenge in the legal field is to achieve closer day-to-day co-operation between regulatory authorities across the EU and beyond to tackle cross-border scams and other breaches of consumer law. A Memorandum of Understanding has already been signed between the UK and US enforcement authorities and the UK Government is hoping to build on this success by completing a similar arrangement with other OECD member countries in 2002.

Improving consumer access to information about online shopping

On 29th November 2001 the Government launched its Safe Internet Shopping campaign aimed at encouraging more people to shop online by explaining how to do so safely. The campaign was based on the results of MORI research commissioned to establish consumers' attitudes to internet shopping and how best to deliver information to address them. As a consequence of the research, the Government published new literature and web-based material, focusing on "top tips" to help consumers shop safely online. The campaign was well received in the local and national papers and television and we are looking at ways to sustain the momentum in 2002.

Modernising Consumer Institutions

National Performance Framework

Trading Standards authorities in England, Scotland and Wales enforce consumer protection legislation. The National Performance Framework has been developed to help modernise Trading Standards services and to enable them to be more effective by working towards national and local priorities in a coherent way. The Government aims to provide a better deal for consumers, giving them more choice, better services and competitive prices. The National Performance Framework supports this objective, encouraging Trading Standards to be focused on giving advice to consumers and businesses, as well as enforcing the law.

Modernisation Fund

The Government is investing £30 million over three years (2001-2004) to raise the standards of consumer protection at a local level. Funds will be targeted through the Modernisation Fund, which was launched in 2001, in four main areas: effective enforcement, raising Trading Standards capability, information and advice to consumers and business and consumer safety. In 2001 – 02, £0.5 million was made available to support regional coordination to improve communication and joint working between Trading Standards Authorities in England, Scotland and Wales. A further £0.5 million was also available to fund specific projects that involved Trading Standards Authorities working together or with other enforcement agencies.

Office of Fair Trading Consumer Codes of Practice

In July 2001, the Office of Fair Trading (OFT) decided to go ahead with a challenging regime for consumer codes of practice in the light of responses to its public consultation. A rigorous approach is seen as creating the best opportunity for self-regulation to enable consumers to find reputable traders and obtain redress when necessary. Priority sectors for the new approach to codes of practice are: used cars, car repair and servicing, credit (including debt management and credit repair), funerals, travel, estate agents and direct marketing.

The OFT proposed its new two-stage scheme in February 2001. At stage one code sponsors promise to deliver on OFT's criteria; at the second stage they will have to prove that their codes deliver on that promise. At this second stage OFT will endorse the codes and promote them to consumers.

New OFT guidelines for credit industry

The Office of Fair Trading issued guidance on standards of behaviour expected of consumer credit licence holders in February 2001. The guidelines make clear what sort of behaviour is likely to lead to action being taken to refuse or remove a licence. They outline the type of conduct which is not consistent with fitness to hold a licence - a test all licence holders must meet. Examples of behaviour likely to lead to OFT action are: dishonesty, discrimination, the use of oppressive sales techniques and unreasonably failing to offer consumers redress. The OFT plans to add to these general guidelines later this year with specific guidance for business sectors that attract high levels of complaint, such as debt collection, credit broking, used cars and home improvements.

IMSN Internet Sweep – UK results

The Office of Fair Trading, together with 28 trading standards authorities, took part in the IMSN Internet Sweep in February 2001. Participants surfed the net to assess how well e-commerce websites selling the most frequently purchased consumer goods and services performed against internationally accepted consumer protection principles.

Although most of the 637 UK sites examined provided basic business contact details and an itemisation of the costs of purchase, many fell short in providing easily accessible information on both their refund or exchange policies and how they would handle customers' personal details. Only 48% provided any information regarding refund or exchange policies. The OFT is now working with trading standards authorities to follow up with these companies to ensure that their sites are amended to comply with the law on distance selling.

Financial Services

Mortgage and General Insurance Regulation

The Government announced on 12 December 2001 that the UK's single regulator, the Financial Services Authority (FSA), would be given responsibility for the regulation of mortgage intermediaries and advice. Previously, the Government had announced that mortgage lenders would be regulated by the FSA. At the same time, the Government announced that it would also give responsibility to the FSA for the regulation of general insurance intermediation. Both arrangements are due to come into force in 2004.

Banking Services Consumer Codes Review

This independent report, commissioned by the Government, examined whether the voluntary consumer codes for banking and mortgages were delivering sufficiently strong benefits to consumers. The report was published in July 2001 and found that the codes had been effective at raising standards, but it also made recommendations aimed at improving competition and further increasing the levels of customer service in banking. The Government has welcomed the financial industry response to the report - they accepted the majority of the recommendations, which are now being implemented.

Relations between consumer policy and other aspects of government policy

Environmental policies

The UK Government has set up an Advisory Committee on Consumer Products and the Environment (ACCPE) to advise it on policies to reduce the environmental impacts associated with the consumption of goods and services. In its first report in October 2000 the Committee considered ways to improve the environmental information available to consumers.

During the past year the UK Government has been considering how best to take forward the recommendations of the Committee. It has carried out research on how a stakeholder panel to adjudicate and provide advice on environmental claims about products might be set up; looked at the practicality of developing a set of standardised labels based on the EU Energy Label for cars and homes with a view to carrying out consultations; and carried out a feasibility study on an Internet site to guide consumers on the impacts of products.

Food Policy

The Food Standards Agency, established in 2000, aims to protect the health of the public and the interests of consumers in relation to food. As part of its main objective of putting the consumer first, it is developing and testing new ways of working to ensure that the consumer perspective is fully accounted for when developing and evaluating policies.

Consumer attitudes

The Agency published the results of its first annual survey of consumer attitudes in February 2001. Information from the survey has helped to prioritise the Agency's work by indicating the key areas of consumer concern about food policy.

Consumer Committee

In February 2001, the Agency Board agreed to the establishment of a new Consumer Committee that would help it identify consumer needs and views. Half of the Committee's members are being appointed from nominations made by the main consumer groups in the UK, and half appointed through open advertisement. The Committee will begin its work in 2002.

Supporting consumer organisations and representatives

The Agency is funding a quarterly working party, the Consumers Food Group, to help a range of consumer organisations to develop common policy and contribute more effectively to the Agency's consultations. A pilot course has been run to train consumer representatives on the Agency's scientific advisory committees.

Consumer consultation

The Agency is committed to consulting widely to inform its policy-making process. During 2001, a major public consultation was undertaken to inform its response to the Farming and Food Policy Commission. In addition to its usual consultation techniques the Agency conducted a consumer opinion poll, commissioned focus groups, worked with the National Consumer Council to look at the views of low income consumers, ran a series of regional seminars and held a youth forum.

Consumer-friendly website

The Agency launched a revamped website in December 2001 which was specifically focussed on consumer needs for information and advice.