



# OFT financial services strategy

The Office of Fair Trading (OFT) recently published for consultation its proposed financial services strategy. It confirms that the OFT intends 'to sharpen our financial services focus over the coming year'. The strategy refers to a number of consumer protection and competition law related initiatives under way or to be initiated by the OFT. Among others, the strategy announces that the OFT is to conduct a review of the unsecured consumer credit market. Many of the initiatives are still open for the submission of views by interested parties. This attention on the financial services sector gives stakeholders a significant opportunity to influence enforcement policy for the future.

## Focus on financial services

Competition law has played a key role in the response to the financial crisis. Rules governing state aid have been considered in a record 50 cases in the past six months. Emergency acquisitions of distressed companies have been assessed for compliance with merger control rules in exceptionally short timeframes. Competition and consumer protection authorities across the world have emphasised that they may be flexible on procedure but stated that they will not compromise on principles.

Against this background, it is of no surprise that the Office of Fair Trading (OFT), in its draft financial services strategy, has indicated that it will 'sharpen' its focus on the financial services sector and that it will continue strongly to enforce competition and consumer protection laws, 'ensuring that the sector that emerges from the current crises is competitive and behaves fairly and responsibly towards consumers'. In its consultation document the OFT announces its intention to review the unsecured consumer credit sector. It also lists the other work that is ongoing in its review of the financial services industry.

The consultation on the financial services strategy will run until 12 June 2009. A final financial services plan, taking account of the consultation responses, will be published in July 2009.

## Guiding principles

The OFT notes a number of consequences of the financial crises and economic downturn, including:

- re-pricing products for existing customers;
- increases in practices designed to make money from over-indebtedness and distress;
- a reduction in competition with firms going out of business; and
- an increased risk of co-ordination between firms as they collectively try to maintain profitability.

In response the OFT intends to 'sharpen' its 'financial services focus over the coming year'. Its priorities will be set by reference to two principles:

- 'to promote fairness and responsibility in the relationship between the credit industry (including banks and debt businesses) and their customers to deal with the immediate issues facing consumers'; and
- 'to play a strong role as an advocate of choice and competition, in the UK and internationally, to ensure that as public decisions are necessarily made to deal with the current crisis, they do not harm competition over the long term and thus reduce the future growth of the UK economy'.

The OFT believes that particular attention will need to be paid to how the government withdraws from the banking sector.

## Review of the unsecured consumer credit sector

The first new initiative announced is a review of the unsecured consumer credit sector to examine:

- consumer behaviour and decision-making;
- the degree of transparency on pricing;
- how risk-based pricing operates;
- whether the right incentives are in place for suppliers to provide consumers with the products that are right for them; and
- whether there are significant concerns regarding the information passed between lenders and credit reference agencies and its use as part of responsible lending decisions.

The review follows investigations into the supply of consumer credit, the supply of store cards, sale-and-lease-back arrangements and unarranged overdraft charges.

The OFT has invited views on the scope of the unsecured consumer credit review by 8 May 2009. The review itself will start in summer 2009.

## Other ongoing initiatives

The OFT lists a number of other ongoing initiatives in the sector, including:

- the 'irresponsible lending' project launched in August 2008. Its aim is to set out what the OFT considers to be 'irresponsible lending' (within the meaning of the Consumer Credit Act 1974). Draft guidance is likely to be issued for consultation by summer 2009 and the project is expected to be finished by the end of 2009;
- the consultation on draft guidance for businesses engaged in second charge lending published on 13 February 2009. The consultation runs until 8 May 2009;
- an investigation into the fairness of fees charged by banks for the provision of unarranged overdrafts and returning items. The OFT expects to reach a final decision this year;
- monitoring the use of charging orders as a method of enforcing judgment debts, where the debts originally arose under regulated consumer credit agreements. The OFT has written to a number of creditors seeking further information;

- a review of compliance with the OFT's debt management guidance. The review is expected to start in mid-2009;
- work with stakeholders, as a result of the market study into personal current accounts, to improve the transparency of costs and promote greater confidence in the switching process;
- work to ensure that payment systems are subject to the benefits of the competitive process and responsive to customer needs; and
- work with the Competition Commission and Financial Services Authority on the implementation of payment protection insurance remedies.

## Conclusion

The OFT's confirmation that it will continue to focus on the financial services sector is not surprising. However, this attention and the various OFT consultations outlined above give financial services providers a significant opportunity to influence the enforcement of competition and consumer protection policy for the future. A number of initiatives referred to by the OFT in its strategy document are still open for the submission of views by interested parties. In particular, the intended review of the unsecured consumer credit market is open for consultation on its scope.

The OFT is looking to ensure that competition is not harmed in the long term and, thus, the future growth of the UK economy is not reduced. Policy decisions made now may therefore have far-reaching consequences in the future.

This briefing was prepared by

David Aitman  
T +44 20 7832 7240  
E david.aitman@freshfields.com

Kier Liddell  
T +44 20 7716 4330  
E kier.liddell@freshfields.com

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