

**DESIGNATION AS AN ENFORCER FOR
PART 8 OF THE ENTERPRISE ACT 2002:**

**GUIDANCE FOR PRIVATE BODIES
SEEKING A DESIGNATION UNDER
SECTION 213**



**Department of
Trade and Industry**
Consumer and Competition Policy Directorate

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DESIGNATION AS AN ENFORCER FOR PART 8 OF THE ENTERPRISE ACT 2002: GUIDANCE FOR APPLICANTS

Introduction

1. The Enterprise Act 2002 (“the Act”) received Royal Assent on 7 November 2002. Part 8 of the Act concerns the enforcement of certain consumer protection legislation. It is intended that it should come into force on 20 June.
2. Part 8 of the Act will replace the Stop Now Orders (E.C. Directive) Regulations 2001 (S.I. 2001 No. 1422) (SNORs), which came into force on 1 June 2001. The Regulations give effect in the United Kingdom to Directive 98/27/EC on injunctions for the protection of consumers’ interests (known as the “Injunctions Directive”).
3. The Regulations created a new enforcement mechanism under which the Director General of Fair Trading (DGFT) and “qualified entities” may apply to the courts for orders (known as Stop Now Orders) to stop traders infringing a wide range of consumer protection legislation where those infringements harm the collective interests of consumers. The legislation in respect of which Stop Now Orders may be sought is that implementing specified EC consumer protection directives into the national law of a Member State of the European Economic Area (EEA).
4. Part 8 of the Act extends the Stop Now regime to a wider range of consumer protection legislation, when breaches of that legislation harm the collective interests of consumers.

5. Two types of infringement are created by the Act:

(i) Community infringements are acts or omissions contrary to any of the consumer protection directives, or parts of directives, listed in the Injunctions Directive and in Schedule 13 (as amended) to the Act. This list is reproduced at Annex A. A copy of the Order specifying, for the purpose of the definition of a Community infringement, the UK laws that give effect to the listed directives (or parts of directives) or that provide ‘additional permitted protections’ is on the DTI website. This instrument also makes a minor change to the list in Schedule 13.

(ii) Domestic infringements are acts or omissions breaching other domestic law requirements set out in the *Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2003* made under section 211 of the Act. The acts and omissions must also fall within section 211(2) (a) to (g) of the Act. A copy of the Order is on the DTI website. It is intended that the Order will come into effect on 20 June, subject to parliamentary approval.

6. The Act creates three categories of enforcers for Part 8. Enforcers are bodies which are empowered to apply to the Court for enforcement orders, and to seek and obtain undertakings from traders in lieu of such Court action.

7. General enforcers are listed in section 213(1) of the Act – these are the OFT, all Trading Standards Departments (local weights and measures authorities) in Great Britain, and the Department of Enterprise, Trade and Investment in Northern Ireland. These enforcers have the power to apply for enforcement orders in respect of all infringements.

8. Designated enforcers are to be designated by the Secretary of State by Order. Designated enforcers may be either public or private bodies, but they must have as one of their purposes the protection of the collective interests of consumers. In the case of public bodies, the Secretary of State must be satisfied of their independence before she designates them as enforcers for Part 8. As with the SNORs the statutory regulators for the gas, electricity, water, telecommunications and rail industries, the Information Commissioner and the Civil Aviation Authority have been designated as public enforcers. The only change compared with SNORs is that the Strategic Rail Authority has been designated in place of the Rail Regulator. Although these enforcers have the power to apply for enforcement orders in respect of all infringements we would not expect them to act in areas where they have no expertise.

9. Private bodies that wish to be designated must, in addition to protecting the collective interests of consumers, satisfy such other criteria as the Secretary of State specifies by Order. This guidance is intended to accompany those criteria, to assist private bodies who wish to apply to the Secretary of State for designation.

10. Community enforcers are bodies from other EEA States that are listed in the Official Journal of the European Communities under Article 4.3 of the Injunctions Directive. It is a requirement of the Injunctions Directive that the courts or administrative authorities of an EEA State must accept inclusion in this list as proof of the legal capacity of the bodies to apply for injunctions in all EEA States to stop Community infringements. Community enforcers may only apply for enforcement orders in respect of Community infringements. Designated enforcers that have been designated

for the purpose of one or more Community infringements may ask the Secretary of State to notify the European Commission of their designation so that they can be listed in the Official Journal and take action in other EEA States. The notification to the Commission will include the types of Community infringement in respect of which the body has been designated, in addition to the name and a general description of the purpose of the body, which are required under Article 4(2) of the Injunctions Directive.

Criteria for designation

11. A copy of the Order setting out the criteria that an applicant must satisfy before the Secretary of State can designate it as a designated enforcer for the purposes of Part 8 is on the DTI website.

12. The criteria are as follows:

- (1) the applicant is so constituted, managed and controlled as to be expected to act independently, impartially and with complete integrity and has established procedures to ensure that any potential conflicts of interest are properly dealt with;
- (2) the applicant has demonstrated experience, competence and expertise in promoting or protecting the collective interests of consumers in respect of domestic infringements or Community infringements, including, where the applicant is a successor to any person or body which had such expertise, by reference to that person or body;

- (3) the applicant has demonstrated the ability to protect the collective interests of consumers by promoting high standards of integrity and fair dealing in the conduct of business in relation to such consumers;
- (4) the applicant has the capability to investigate infringements and carry out the enforcement procedures set out in the said Part 8 in respect of the types of infringement for which it seeks designation;
- (5) the applicant is ready and willing to follow best practice in enforcement;
- (6) the applicant is ready and willing to co-operate with the OFT and other general enforcers, designated enforcers and Community enforcers and any other person responsible for the regulation of matters in respect of which acts or omission may constitute domestic or Community infringements including by:
 - (a) sharing information with such other enforcers and persons in so far as legally permitted; and
 - (b) by participating in arrangements to co-ordinate action under Part 8 with other enforcers and persons acting or proposing to act in respect of the same person.

13. Article 4 of the Order further provides that an applicant shall not be regarded as failing to meet the criteria set out in paragraph 12 of this

guidance by reason only of a connection with a person carrying on business of a kind that could be affected, directly or indirectly, by action taken under Part 8 of the Act so long as that person does not control the applicant and any profits of the business are used for the purposes of furthering the stated objectives of the applicant.

14. This guidance sets out the evidence required from private organisations applying to be designated, and the factors that will be taken into consideration in assessing applications against the criteria. A checklist of the information required is at Annex B.

Meeting the criteria for designation

15. The following paragraphs set out the evidence that applicant organisations must provide to demonstrate to the Secretary of State that they meet the criteria to be designated as an enforcer under Part 8 of the Act.

Section 213(2)(a) of the Act

A designated enforcer is any person or body (whether or not incorporated which the Secretary of State -

(a) thinks has as one of its purposes the protection of the collective interests of consumers.

16. Applicant organisations must demonstrate to the Secretary of State that one of their objectives, and a key part of their activity, is the protection of the collective interests of consumers. This may be the interests of

consumers generally or specific groups of consumers (for example, consumers with particular needs or disadvantages). Applicant organisations should bear this in mind when they submit evidence in support of the criteria below.

17. Applicant organisations should provide a concise but comprehensive paper setting out the nature of the organisation, its overall purpose, a summary of its main activities, details of the sectors in which it operates, and evidence of how long it has been in existence. The paper should include the same information for any trading arm(s) attached to the main organisation.

Criterion (1)

The applicant is so constituted, managed and controlled as to be expected to act independently, impartially and with complete integrity and has established procedures to ensure that any potential conflicts of interest are properly dealt with;

18. Applicant organisations must provide a copy of their legal constitution. For bodies corporate this would be a copy of the Memorandum and Articles of Association. The requirement to provide a copy of the organisation's legal constitution should also meet the requirement in the Injunctions Directive in respect of Community infringements that it is properly constituted according to the laws of a Member State. Where an organisation has one or more separately constituted trading arm(s), it must also provide a copy of the constitution of each trading arm together with a list of its commercial interests. Specific provisions concerning organisations with trading arms are dealt with under Article 4 of the Order.

19. In order to be able to assess whether an organisation is so managed and controlled as to be expected to act independently, impartially and with complete integrity, all applicant organisations are required to provide the following information:

- (i) the current list of directors (including non executive directors), partners or principal officers of the organisation and any other person who could be said to exercise control of the organisation;
- (ii) *Curriculum vitae* (CVs) of the directors, partners or principal officers of the organisation and any other person who could be said to exercise control over the organisation;
- (iii) where this is not included on the CVs, a current list of directorships, shareholdings and any other substantial interests in other companies held by directors, partners or principal officers of the organisation and any other person who could be said to exercise control over the organisation;
- (iv) a paper setting out the administrative arrangements to be put in place to receive and investigate complaints. The paper should also provide evidence that the applicant has adequate human and financial resources and capability to enable it to properly investigate complaints. Where an applicant organisation has a trading arm the paper must also provide information about the procedures the organisation has established to identify and deal with conflicts of interest;

- (v) at least two years' accounts, or where this is not possible an explanation of why two years' accounts are not available.

Where an applicant organisation has a trading arm, the above information must also be provided in respect of that trading arm, including details of how the trading arm's profits are used.

20. The past conduct of the individuals (directors, partners, or principal officers) who manage or control the organisation may impact on the way in which it could be expected to exercise powers under the Act if it were to be designated. This will depend on the circumstances, including the degree of influence of the individual concerned. In appropriate cases the Secretary of State will take into account evidence of the integrity of such individuals and of the extent to which decisions of the individual may take in relation to the organisation could be influenced by financial or other improper considerations. Applicant organisations should therefore disclose any information which they think may be relevant, particularly with regard to those issues listed in paragraph 21 below.

21. In considering the evidence provided, all relevant circumstances will be taken into account in reaching a view including (but not necessarily limited to), where appropriate, whether the organisation, if it has separate legal personality, or the individuals who manage or control it:

- (a) has committed any offence involving fraud or other dishonesty or, in the case of an individual, any offence which might cast doubt on the suitability of an organisation controlled or

managed by that person and which is not a spent conviction under the Rehabilitation of Offences Act 1974;

- (b) is subject to winding up proceedings or, in the case of an individual, an undischarged bankrupt or disqualified director;
- (c) has practised unlawful discrimination for example, on grounds of sex, colour, race, or ethnic or national origins in, or in connection with, the carrying on of any business;
- (d) has engaged in business practices that appear to the Secretary of State to be deceitful or oppressive, or otherwise unfair or improper (whether lawful or not).

Criterion (2)

The applicant has demonstrated experience, competence and expertise in promoting or protecting the collective interests of consumers in respect of domestic infringements or Community infringements, including, where the applicant is a successor to any person or body which had such expertise, by reference to that person or body;

22. Evidence should be provided that the applicant organisation has a track record demonstrating experience, competence and expertise in promoting the interests of consumers. Where a new organisation is formed from one or more previous organisations (for example, as a result of two organisations merging), the new organisation may cite the experience, competence and expertise of its predecessor(s) as evidence.

23. Examples of activities which an organisation might undertake to protect the collective interests of consumers include:

- (a) promoting high standards in the quality of goods and services provided to consumers;
- (b) promoting public knowledge and understanding of consumer rights and how to get redress when things go wrong;
- (c) providing information and advice to assist consumers decide which goods and services to buy, for example, through impartial product research and comparative surveys;
- (d) encouraging businesses to present complex information more clearly and simply so as to make it easier for consumers to assess options;
- (e) promoting consumer self-confidence through the advancement of objective consumer education;
- (f) promoting high standards of safety in goods and services;
- (g) giving specific impartial advice to individual consumers about any consumer problems they may encounter;
- (h) representing the interests of socially or economically vulnerable consumers;

- (i) promoting the general welfare of disadvantaged groups who may have special needs as consumers

24. A track record of a minimum 2 years would normally be expected to demonstrate evidence of sufficient experience, competence and expertise. However, a different period may be required in some cases, for example a longer period if the organisation can demonstrate only few examples of promoting the collective interests of consumers. Therefore all applicant organisations should provide evidence demonstrating:

- experience of acting in the interests of consumers - whether generally or particular groups of consumers, and over what period;
- expertise within or available to the organisation such as legal advisers or case officers familiar with consumer law and/or dealing with consumer problems;
- sufficient understanding of the areas in which the organisation wishes to take enforcement action.

Criterion (3)

The applicant has demonstrated the ability to protect the collective interest of consumers by promoting high standards of integrity and fair dealing in the conduct of business in relation to such consumers;

25. Applicants must provide evidence of promoting high standards of integrity and fair dealing by business towards consumers. This is closely linked to criterion (2), but examples of activities which would demonstrate the promotion of integrity and fair dealing could include:

- (a) promoting high standards of quality and safety for goods and services provided for consumers;
- (b) encouraging businesses to provide consumers with clear and comprehensible information about products and services;
- (c) encouraging businesses to provide transparent pricing information to consumers;
- (d) encouraging businesses to adopt best practices in relation to customer service and redress.

Criterion (4)

The applicant has the capability to investigate infringements and carry out the enforcement procedures set out in Part 8 in respect of the types of infringement for which it seeks designation;

26. Designated enforcers will be expected to have adequate human and financial resources available to them to enable them to properly investigate infringements and, where necessary, prepare cases for enforcement orders and bring them to Court. It should be noted that designated enforcers would be liable for any costs order made against them by the court in its discretion, for example, if an application for an order is refused. Applicants organisations should therefore demonstrate that they have sufficient human and financial resources to take actions as designated enforcers. This includes setting out the criteria and internal process to be followed in selecting cases to be pursued. It should include an element of risk

assessment and how the body would deal with an award of costs against it by the court.

27. It is recognised that some private organisations may have limited financial resources and may not be in a position to consider all complaints made to them. Where a designated enforcer decides it does not have the resources to deal with a valid complaint then it should have mechanisms in place to refer the complaint promptly to the OFT or another enforcer

Criterion (5)

The applicant is ready and willing to follow best practice in enforcement.

28. The Cabinet Office's Enforcement Concordat is the current recognised statement of best practice in enforcement. The OFT and Trading Standards Departments are among the signatories to the Concordat. The Concordat includes commitments on matters including transparency of procedures, fair treatment, and the availability of a system for complaints and redress. The full text of the concordat and the current list of subscribers can be seen at **www.cabinet-office.gov.uk/regulation/publicsector/enforcement/concordat.htm**.

29. All designated enforcers will be required to agree to act in accordance with the principles set out in the Enforcement Concordat, and any future best practice documents which replace it. Applicant organisations must therefore provide a written statement that they are ready and willing to follow these principles.

Criterion (6)

The applicant is ready and willing to co-operate with the OFT and other general enforcers, designated enforcers and Community enforcers and any other person responsible for the regulation of matters in respect of which acts or omissions may constitute domestic or Community infringements, including by:

- (a) sharing information with such other enforcers and persons in so far as legally permitted; and**
- (b) by participating in arrangements to co-ordinate action under Part 8 with other enforcers and persons acting or proposing to act in respect of the same person.**

30. Applicant organisations must confirm their readiness and willingness to co-operate with the bodies covered by this criterion and provide any available evidence of this.

31. As part of this co-operation, designated enforcers would be expected to follow the advice and information which the OFT is required to publish under section 229 of the Act.

32. Designated enforcers would also be expected to agree to co-operate with the co-ordination arrangements to be put in place by the OFT as published in the formal Memorandum which will be set up between the Office of Fair Trading and UK enforcers detailing the principles of, and arrangements for, coordination, and to have regard to whether the cessation of the infringement could be achieved more appropriately by other regulatory or self-regulatory means. The Secretary of State must, in order

to designate an organisation, reach a view that it would be ready and willing to co-operate in accordance with this criterion.

33. The reference to “any other person responsible for the regulation of matters in respect of which acts or omissions may constitute domestic or Community infringements” in this criterion includes the statutory regulators responsible for broadcasting (currently the Independent Television Commission, Radio Authority¹ and the S4C Authority); medicines control (Medicines Control Agency) and the financial services industry (Financial Services Authority). It also applies to self-regulatory bodies such as the Advertising Standards Authority and to independent regulatory bodies such as the Independent Committee for the Supervision of Standards of Telephone Information Services, which is responsible for setting and reviewing standards relating to the promotion and content of premium rate telephone services advertised in the UK through its Codes of Practice.

34. The Act also contains a number of safeguards to underpin these co-ordination arrangements. Designated enforcers must first consult the OFT before bringing any proceedings. If the OFT believes that an enforcer or enforcers other than itself intends to apply for an enforcement order in respect of a particular infringement, it may direct which enforcer may bring such proceedings, or that only it may do so. Where the OFT directs that only it may make such applications, that does not prevent it from seeking a voluntary undertaking from the trader or from taking other steps to bring the infringement to an end.

35. The effect is that if the OFT becomes aware that an enforcer (other than a Community enforcer) is intending to make an application for an enforcement order, but there are regulatory or self-regulatory mechanisms that the enforcer has not attempted to use, the OFT could make a direction to the effect that only it can make a court application. Such a direction will still allow such an infringement to be dealt with through alternative regulatory or self-regulatory regimes where this is appropriate.

36. Where a designated enforcer passes a case over to the OFT or another enforcer for the OFT or other enforcer to take forward, the designated enforcer must agree to pass to the OFT or other enforcer all papers and material in its possession relating to the case unless there is a legal bar on doing so.

Applicants with trading arms

37. The Order provides in article 4 that:

An applicant shall not be regarded as failing to meet criterion (1) by reason only of a connection with a person carrying on a business of a kind that could be affected, directly or indirectly, by action taken under Part 8 of the Act so long as that person does not control the applicant and any profits of the business are only used for the purposes of furthering the stated objectives of the applicant.

38. An organisation would not be considered to meet the provisions in

¹ Under the Communications Bill currently before Parliament the Office of Communications will take over the regulatory roles of both the Independent Television Commission and the Radio Authority later

criterion (1) regarding independence and impartiality where that organisation is controlled by a person or company carrying on business of a kind that could be affected, directly or indirectly, by action taken under Part 8 of the Act. Trade associations which derive their fee income directly from member organisations would also be considered not to have the necessary impartiality and independence from commercial and other pressures.

39. However, an organisation will not be regarded as failing to meet the criteria by reason only of a connection with a person carrying on business of a kind that could be affected, directly or indirectly, by action taken under Part 8 so long as that person does not control the organisation and any profits of the business are only used for the purposes of the stated objectives of the applicant. This enables, for example, an applicant organisation with an ancillary trading arm to meet the criteria provided that the trading arm does not control the organisation and the profits of the trading arm are used to fund the organisation's stated aims. To exclude organisations with a trading arm would negate the policy objective of broadening the enforcement base. This is because most consumer bodies, and organisations such as charities who represent disadvantaged groups which may have special needs as consumers, raise some of their funds through an ancillary trading arm.

40. Self-regulatory bodies should also be eligible to apply for designation provided that they can demonstrate their independence from the industry whose Code of Practice or other provision they oversee (i.e. such persons do not control it). However, such self-regulatory bodies would either have to be independent of the industry concerned or, if funded

by the industry, have internal arrangements in place such that they can demonstrate their ability to act independently, impartially and with complete integrity in the interests of consumers. Evidence of these internal arrangements should be provided.

41. In order to demonstrate their independence and impartiality, applicants with trading arms or self-regulatory responsibilities will be required to give an assurance that they would not, if designated, use their powers under Part 8 of the Act to take enforcement action in respect of a trading practice, where the goods or services are in direct or indirect competition with their trading arm's own commercial activities. They must also provide information about the procedures the organisation has established to identify and deal with conflicts of interest (see criterion 1). If a business were to question the motives of a designated enforcer in bringing an action at any stage of the process, then the enforcer should be ready and willing to discuss those concerns with the business.

42. The OFT has the power to take over, or direct another enforcer, to take over, a case. A decision to exercise such a power (or not to exercise it) in these circumstances would be based on all relevant considerations and would be without prejudice to the Secretary of State's consideration of whether the assurance on conflicts of interest had been breached. When taking over proceedings, or directing others to do so, the OFT would, in the interests of effective coordination, expect the original designated enforcer to hand over all relevant documentation and correspondence, whether marked 'confidential' or otherwise, although due regard will be had to the confidentiality of any information provided.

Remit of designation

43. The Secretary of State may designate an organisation as a designated enforcer for all purposes under Part 8 of the Act or in relation to particular types of domestic and/or Community infringement.

44. Applications for designation should state whether designation is sought for all purposes under Part 8 of the Act or only in respect of particular types of domestic and/or Community infringements. Where the constitution of the body refers to consumer interests in a particular sector it is expected that the designation sought would be related to the legislation or rules of law applicable to that sector. Applicants should therefore indicate the legislation and common law obligations in respect of which they wish to be designated.

Community infringements: Cross border actions

45. Under the Injunctions Directive enforcers (termed “qualified entities” in the Directive) may bring proceedings in another EEA State if a Community infringement there has harmful effects on consumers in the enforcer’s home State.. At the request of an organisation designated as a designated enforcer under the Act for one or more Community infringements, the European Commission will be informed that the organisation is qualified to bring proceedings in respect of such infringements in the United Kingdom. The name and purpose of the organisation, and the Community infringements in respect of which it is designated, will be notified to the Commission for publication in the “C” series of the Official Journal of the European Communities in accordance

with Article 4(3) of the Injunctions Directive.

46. Designated enforcers notified to the Commission as described above will have the power to bring proceedings before the courts or administrative authorities of other EEA States. Inclusion in the list published in the Official Journal will be proof in other EEA States of the legal capacity of the designated enforcer to bring such proceedings.

47. Applicant organisations should therefore indicate whether they wish to be included in the list of organisations eligible to bring proceedings for injunctions in other EEA States published by the Commission. Where an organisation wishes to be included in the list it should provide a short description of its purpose for notification to the Commission. The courts and administrative authorities in other EEA States hearing such cases will be able to examine whether the purpose of the organisation justifies its bringing proceedings in any particular case. The Department considers that the Injunctions Directive only gives enforcement bodies the power to apply for injunctions in other EEA States in respect of those Community infringements for which it has been designated in its home State.

Review of designation

48. The Secretary of State will from time to time review the designation of each organisation as a designated enforcer for Part 8 of the Act, in order to ensure that it continues to meet the criteria for designation. Normally this will be carried out after the second year of the organisation's designation and then at intervals, the length of which will depend on an assessment of risk that the organisation is likely to fail to meet the criteria.

49. If, during the review it is found that the organisation no longer meets the criteria then the Secretary of State will withdraw its designation.

Withdrawal of designation

50. A private body designated as an enforcer for the purposes of Part 8 of the Act should inform the Secretary of State immediately of any material changes to the information supplied which could be relevant to meeting any of the criteria.

51. Should a designated enforcer no longer meet the criteria, either generally or in relation to particular infringements, then its designation will be withdrawn either generally or in respect of those particular infringements. For example if, having been designated, an enforcer failed to co-operate with the OFT, other enforcers and other persons, when appropriate (criterion (6)), the Secretary of State would consider withdrawing the designation on the ground that the organisation no longer met the criteria. Designated status would also be removed from any designated enforcer that the Secretary of State believes has abused its position as an enforcer. This might be by using the enforcement process (or deliberately breaching the criteria) for competitive advantage or commercial gain, or by pursuing frivolous actions.

52. In considering whether an organisation should have its designation withdrawn, any consequences of the failure to comply with the criteria and, when appropriate, previous occasions when the organisation had failed to comply with the criteria will be taken into account.

53. Designation can also be withdrawn at the request of the organisation.

Changes to the criteria against which consumer bodies are assessed

54. The present power to designate private consumer organisations as enforcers under regulation 4 of the SNORs, which sets criteria for designating “other UK qualified entities”, has not been used so the criteria are currently untested. It may be that experience will show that the criteria under the Enterprise Act Order need to be amended. If it proposed to change the criteria the Department will consult on the proposed changes. If changes are made to the criteria, then the Secretary of State will consider how the changes affect the designation of bodies that then hold designated status.

Application process

55. Applications to be considered for designation as an enforcer under Part 8 of the Act should be sent to:

The Director
Consumer Strategy and Delivery
DTI
4th.Floor
1 Victoria Street
London
SW1H 0ET

56. An acknowledgement of the receipt of an application for designation as a designated enforcer under Part 8 will normally be sent out within 5 working days.

57. To provide a transparent application process, all applications will be placed on the DTI website for a period of 12 weeks. Personal information relating to directors and other relevant individuals that would not normally be in the public domain will not be put on the website. Applicants must indicate on their applications any information which they consider ought not to be made public.

58. Should any organisations wish to be notified of any applications added to the website then they should inform the DTI. If an organisation considers there is any material information missing or that the information the applicant has provided is factually incorrect, it should inform the DTI within the 12 week period.

EC consumer protection directives covered by the Injunctions Directive

Directives

- (i) misleading advertising (84/450/EEC);
- (ii) contracts negotiated away from business premises (“**doorstep selling**”) (85/577/EEC);
- (iii) **consumer credit** (87/102/EEC as last amended by 98/7/EC);
- (iv) **package travel, package holidays and package tours** (90/314/EEC);
- (v) **unfair terms in consumer contracts** (93/13/EEC);
- (vi) **timeshare** (94/47/EC);
- (vii) distance contracts (“**distance selling**”) (97/7/EC);
- (viii) **sale of consumer goods** and associated guarantees (1999/44/EC);
- (ix) **electronic commerce** (2000/31/EC).

Provisions of Directives

- (x) **television advertising and sponsorship** (89/552/EEC)(articles 10 to 21) as amended by (97/36/EC);
- (xi) **advertising of medicinal products** for human use (2001/83/EC)(articles 86 to 100);

SUMMARY OF INFORMATION APPLICANT ORGANISATIONS SHOULD SUPPLY:

Name and address of the organisation and a contact point for correspondence

Nature of the organisation, purpose, activities and sectors covered and how long in existence (also for any trading arms) – **paragraph 17.**

Copy of the organisation's constitution (e.g. Memorandum and Articles of Association) setting out its objectives – **paragraph 18.**

The current list of directors (including non-executive directors), partners or principal officers of the organisation and any trading arms – **paragraph 19.**

Curriculum vitae (CVs) of the directors, partners or principal officers etc of the organisation and any trading arms – **paragraph 19.**

A current list of directorships, shareholdings and any other substantial interests in other companies held by directors, partners or principal officers, etc of the organisation (including any trading arms) where this is not given on their CVs – **paragraph 19.**

A paper setting out the administrative arrangements to be put in place to receive and investigate complaints including evidence of adequate human and financial resources available – **paragraphs 19 & 41.**

At least two years accounts, or where this is not possible an explanation of why two years accounts are not available. Where there is a trading arm, the accounts should show the sources of income and the purpose for which the income is used – **paragraphs 19 and 39**

Any relevant information on the past conduct of the individuals who manage or control the organisation (including any trading arms) – **paragraphs 20 - 21.**

Evidence demonstrating experience of acting in the interests of consumers/particular groups, with examples and over what period – **paragraph 24.**

Evidence of expertise within or available to the organisation - e.g. legal advisers or case officers familiar with consumer law/dealing with consumer problems – **paragraph 24.**

Evidence of sufficient understanding of the areas in which organisation wishes to take enforcement action – **paragraph 24.**

Evidence of promoting high standards of integrity and fair dealing by businesses towards consumers – **paragraph 25.**

Evidence as to availability of sufficient human and financial resources to conduct investigations and bring cases to court, including criteria and process for selecting cases and carry out risk assessment – **paragraph 26**

Statement of readiness and willingness to act in accordance with the principles set out in the Enforcement Concordat – **paragraph 29**

A statement of willingness to co-operate as per criterion (6) – **paragraph 30**

For self regulatory bodies – details of the internal arrangements that demonstrate the organisation is acting independently in the interests of consumers – **paragraph 40**

If the organisation has a trading arm – an assurance that organisation will not use enforcement powers against those in direct or indirect competition with it's trading arms's commercial activities – **paragraph 41**

The particular types of infringement for which a designation is being sought if designation is not sought for all purposes – **paragraph 44.**

If the organisation is applying to have enforcement powers for Community infringements, whether it wishes to be notified to the European Commission for inclusion in the list in the Official Journal. If so, a short description of its purpose should be provided which can be sent to the European Commission – **paragraph 47.**

Information which is considered personal and not normally in the public domain, which the organisation wishes to be omitted when its application is placed on the DTI website must be clearly identified– **paragraph 57**