



**STRENGTHEN AND STREAMLINE
CONSUMER ADVOCACY**

**Regulatory Impact
Assessment for proposals
on consumer
representation and redress**

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Full Regulatory Impact Assessment

PROPOSALS TO STRENGTHEN AND STREAMLINE CONSUMER ADVOCACY

Purpose and Intended Effect of the Measure

1. This Regulatory Impact Assessment considers the options and the associated costs and benefits for strengthening and streamlining consumer advocacy. It is based on the recommendations made in the report by the Department of Trade and Industry (DTI) and HM Treasury, "Consumer Representation in Regulated Industries"¹ and the DTI consultation document on the draft Consumer Strategy². The recommended option also takes into account the responses to the consultation, "Strengthen and Streamline Consumer Advocacy"³; the results of a due diligence exercise undertaken by KPMG on behalf of the DTI, and the implications of the Hampton Review, "Reducing administrative burdens: effective inspection and enforcement"⁴.

Objective

2. The proposals are intended to provide much greater:
 - clarity and ease of use for consumers;
 - effectiveness and the critical mass to increase the ability of the consumer representative body to engage productively with Government, regulators and industry;
 - flexibility to respond to consumer concerns and to prioritise across markets;
 - effectiveness in resolving (rather than just handling) consumer problems; and
 - value for money for taxpayers and consumers.

¹ Copies of this report are available at <http://www.dti.gov.uk/files/file25252.pdf>.

² "Extending Competitive Markets: Empowered Consumers, Successful Business" (published 14 July 2004; consultation ended 31 October 2004).

³ "Strengthen and Streamline Consumer Advocacy: Consultation on consumer representation and redress" (published 25 January 2006; consultation ended 19 April 2006). Available at <http://www.dti.gov.uk/files/file29876.pdf>.

⁴ Available at http://www.hm-treasury.gov.uk/budget/budget_05/other_documents/bud_bud05_hampton.cfm.

Background

3. UK consumers now benefit from choice in most of our essential services. This has been brought about by a long-term commitment by Government to champion open, competitive markets wherever possible, to deliver this choice and to foster high standards and good value in our key markets.
4. Liberalisation of the markets for essential services, and the development of the regulatory regimes, took place over a lengthy period. But there was a common model: licensed companies overseen by an independent economic regulator, and a consumer body with duties in respect of each individual sector.
5. This has led to the current position where we have several sectoral consumer bodies – as well as the National Consumer Council (NCC) – who represent the consumer interest across a range of markets.

The need for Consumer Representation

6. Increasing competition in many of the regulated sectors⁵ has provided significant benefits for many consumers. In energy and electronic communications markets, for example, consumers have a choice from an increasing number of suppliers and an array of different tariffs. In this phase of market development, strong consumer bodies can play an important role in articulating the consumer interest, ensuring that suppliers take their responsibilities to customers seriously and provide the high quality information and advice consumers need to take full advantage of competitive markets and to shop around to get the best deals available.
7. Influential consumer councils and well-informed consumers therefore have a vital transitional role to play in newly competitive markets in improving standards and encouraging customers to compare prices in order to make informed choices. However, 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.
8. Usually, it is a primary duty of the Regulator to protect the interests of consumers. The regulators for gas and electricity, water and electronic communications have objectives to (broadly) promote or protect the interests of consumers. The Postal Services Commission (Postcomm) has a primary duty to ensure the provision of a universal postal service. Subject to this primary duty,

⁵ The regulated sectors are taken throughout this Regulatory Impact Assessment to mean those that have a sector specific regulator i.e. gas, electricity, postal services, water, air transport, electronic communications and financial services.

Postcomm is required to promote effective competition where this is beneficial to consumers. The Financial Services Authority (FSA) has regulatory objectives which include securing the appropriate degree of protection for consumers.

9. The essential nature of the services provided by the regulated markets, the risk of significant consumer detriment, and in some cases the limited nature of competition all mean that there will be a continued need for some form of consumer representation in these markets.
10. There are four market characteristics that together support the requirement for specialist consumer representation in the regulated sectors:
 - the degree of monopoly power exercised within the market. Competition does not necessarily remove the need for consumer representation, but consumer bodies may be particularly important in monopoly sectors where customers cannot change suppliers;
 - the extent to which the product is an essential service and the proportion of regulated activity that can be considered as such;
 - informational problems and other supply side market failures that impact upon consumers e.g. mis-selling; and
 - the size of the market.
11. There are also a number of other factors that are relevant to decisions over consumer representation, such as:
 - the degree of market maturity;
 - the complexity of products and market institutions;
 - the degree of infrastructure constraints that limit the exercise of competitive freedom; and
 - the degree to which today's market developments may have longer-term implications.
12. It is important also to note that the market characteristics outlined above are not set in stone. Indeed, effective consumer representation should seek to reduce consumer detriment and to press for increased competition where this would be beneficial to consumers. Market changes mean that new problems can arise, and competition will not necessarily eradicate all of the causes of

consumer detriment. Nevertheless, the form of consumer representation in a sector – and the resources devoted to it – should be reviewed regularly over time to ensure it continues to be proportionate to need.

Rationale for Government Intervention

13. A study undertaken for the DTI in 2000⁶ to assess and measure consumer knowledge and skills across all sectors found that more than one in three consumers (38%) reported having reason to complain about a good or service over the previous year. The survey found that while 35% of consumers actually made a complaint, consumers aged 55 and over were less likely than average to have made a complaint (25%); while 33% of people from socioeconomic groups C2, D and E actually made a complaint, compared with 45% of those from socioeconomic groups A, B and C1.
14. Most consumers who complain do so to the product seller or service provider (87%). However, 46% of these consumers are not satisfied with the result of their complaint, and of these dissatisfied consumers, only 15% then pursue their complaint further. Disputes can cause stress to the consumer, especially where they take time to be resolved.
15. A survey prepared for the OFT in 2004⁷ found that about 40% of consumer-facing businesses had no consumer policies in place for dealing with disputes, and 32% thought that consumer legislation did not apply to them.
16. Consumer welfare is enhanced by the satisfactory resolution of complaints. However, business also benefits. The OFT's survey found that 70% of consumers who had their complaint resolved satisfactorily will continue to trade with the same company. Good complaints procedures and effective means by which to resolve disputes can improve business performance.

Problems with the Current System of Consumer Representation

17. Despite the valuable service provided to consumers by the existing sectoral consumer bodies, there exists three key issues with the current system of consumer representation that need to be addressed. First, the sectoral consumer bodies currently labour under a significant burden of complaints which they can only seek

⁶ MORI survey (on behalf of the DTI), 2000, *The Consumer Knowledge Survey*.

⁷ Survey prepared for the OFT by Synovate, May 2004, "Competition Act and Consumer Rights", available at <http://www.of.gov.uk/NR/rdonlyres/9FB811E0-666E-42D3-BD41-1FCCEDCF22B2/0/of736intro.pdf>.

to resolve through persuasion. They do not have powers to enforce resolution and cannot provide redress or compensation for consumers who have encountered problems. This is the role of a redress scheme, and it is the creation of new, separate, redress services that form a key part of the proposals.

18. Second, almost every household in the country is a consumer of all or most of the key services, such as electricity, gas, and postal services. For the majority of these markets, the consumer is the same person. Despite this, any consumer who encounters a problem or who wants advice or assistance needs first of all to establish where to go to obtain help. Promoting the existence of the consumer bodies as a source of help has been a consistent problem, and each of the relevant bodies continues to try, individually, to make consumers aware of their services.
19. Third, while companies increasingly offer a variety of regulated and unregulated⁸ services to consumers, each sectoral consumer body can only deal with the aspect of a company's service to consumers which falls within its statutory duties. Sectoral regulators work together on issues of common interest, and although the Consumer Action Network offers the possibility of increased co-operation between sectoral consumer bodies, there are reports of apparently insurmountable difficulties arising from proper legal restrictions on exchange of information between bodies, and claims that individual governance and administration arrangements prevent any meaningful sharing of resources or facilities.
20. The fragmented nature of consumer representation in the UK means that there is not a single, coherent, voice for the consumer that can analyse relative levels of consumer detriment and thereby reflect priorities across the different markets, or that can speak with expertise and authority for all consumers in discussion with companies, with Government, or in Europe. Increased cross-border activity in most services means that Europe has become a crucial forum for representation of the consumer viewpoint. Many of our consumer bodies are extremely active in pursuing the consumer interest at the European level. However, apart from specific sectoral fora, the UK currently needs to field several representatives from different consumer organisations in order to cover issues thoroughly.

⁸ "Unregulated" in this context means that the services are not regulated by a specific sectoral regulator.

The Proposed Model of Consumer Advocacy

21. The proposed model has three elements:
- **Consumer Direct** (already in existence) to provide a single point of contact to provide consumers with information and advice for all sectors;
 - **New “Consumer Voice”**, which would bring together the National Consumer Council and sectoral consumer bodies to represent the interests of consumers across all markets; and
 - **New redress scheme(s)** (already operating in electronic communications, financial services and energy) to resolve complaints where service providers have not been able to do so.
22. The proposal to consolidate the existing sectoral consumer bodies was raised in the July 2004 report by DTI and HM Treasury, “Consumer Representation in Regulated Industries”⁹, and consulted on in the DTI draft Consumer Strategy¹⁰. The proposals followed a detailed investigation of sectoral consumer representation, which attempted to identify best practice across a number of sectors. The DTI/HM Treasury report noted that, in some cases, the sectoral bodies laboured under a burden of large numbers of complaints, to which a significant proportion of staff and budget resources needed to be devoted. The report concluded that each of the sectoral bodies needed to become more strategic and proactive in its approach to consumer representation, and demonstrate value for money. Creating a more effective and coherent Consumer Voice body would be an important step in carrying through the report’s recommendations and delivering on the Consumer Strategy.
23. Assessment of the current provision for consumer representation was aided by a Benchmarking Survey of energywatch and Postwatch that was undertaken for DTI, HM Treasury and the National Audit Office by PricewaterhouseCoopers¹¹. The National Audit Office also published a separate, independent, report on energywatch and Postwatch¹².

⁹ Copies of this report are available at <http://www.dti.gov.uk/files/file25252.pdf>.

¹⁰ “Extending Competitive Markets: Empowered Consumers, Successful Business”. Consultation closed 31 October 2004.

¹¹ Available through <http://www.dti.gov.uk/bbf/competition-law/Competition%20Policy/Economic%20Regulation%20Team/index.html>.

¹² National Audit Office, October 2004, “Energywatch and Postwatch: Helping and protecting consumers”. Available at http://www.nao.org.uk/publications/nao_reports/03-04/03041076.pdf.

Consultation

Within Government

24. We have consulted on these proposals with HM Treasury; the Department of Health; the Department for Transport; the Department for Constitutional Affairs; the Department for Culture, Media and Sport; the Department of the Environment, Food and Rural Affairs; the Scottish Executive; Scotland Office; the Welsh Assembly Government; Wales Office, and the Department of Enterprise, Trade and Investment (Northern Ireland).

Public Consultation

25. The DTI undertook a public consultation on its draft Consumer Strategy in July 2004. Included within that consultation document were proposals designed to strengthen and streamline consumer representation in the regulated industries.
26. A further 12 week consultation, setting out the possible plans and timetable for the proposals, was undertaken between 25 January and 19 April 2006. More than 80 responses were received to the consultation. The overwhelming majority of respondents indicated their support for the general thrust of the proposals and signalled their agreement in principle with the fundamental objectives behind the proposed measures. A number of respondents provided comments in response to the questions set out in the partial Regulatory Impact Assessment that accompanied the consultation document, specifically on the cost and benefit estimates and the impact of the proposals on small firms and competition. These comments are set out in the relevant sections below.
27. A summary of the responses and the Government's response to the consultation can be found at <http://www.dti.gov.uk/consultations/closedwithresponse/index.html>, published on 17 October 2006.
28. We have also discussed the proposals in outline with the Energy Retail Association, Water UK, the Competition Appeal Tribunal, the Competition Commission, the National Consumer Council, the Consumer Action Network and the sectoral consumer bodies.

Options

Option 1: Bring together consumer representation to form a stronger consumer body (“Consumer Voice”) and create a redress scheme(s) for the regulated sectors.

29. Under option 1, consumer representation would be made up of three elements:
- **Consumer Direct** as a single point of contact for consumers in all sectors;
 - a new consumer advocacy body (working title, “**Consumer Voice**”) to undertake research, advocacy, and to have a consumer education role (alongside the OFT) as well as to represent the interests of consumers; and
 - a **new redress scheme(s)** for consumers in the regulated markets included within the proposals¹³ with the power to resolve every complaint. Complaints would be transferred to the redress scheme from Consumer Direct for resolution if needed.

Consumer Direct

30. The new model would utilise Consumer Direct as the single point of contact for all consumers. Consumer Direct is a telephone and online consumer advice service – created by the Department of Trade and Industry and now supported by the Office of Fair Trading – which is designed to deal with enquiries and simple complaints.

New Consumer Advocacy body – “Consumer Voice”

31. The new “Consumer Voice” would bring together sectoral consumer representation roles with that of the National Consumer Council to create a more coherent, independent, consumer champion.
32. It is envisaged that the role of Consumer Voice would be to represent consumers in all markets, advising the OFT, competition authorities and other regulators; providing expert input to the development of policy by regulators and Government; and promoting consumer interests with industry and commerce. Consumer Voice would undertake cross-sectoral research proactively to identify key consumer issues, and play a key role in

¹³ Redress schemes would be required to deal with complaints in the postal services sector and also for gas and electricity complaints that are not already within the remit of the Energy Supply Ombudsman service (redress schemes already exist in financial services and electronic communications).

formulation of public policy both in the UK and in Europe. Complaints data flowing back to Consumer Voice from Consumer Direct and the redress schemes would be a key input to the advocacy work.

33. The current consumer bodies encompass a range of different types of body. Energywatch and Postwatch, for example, are statutory independent bodies with their own staff, accommodation, and budgets. The Financial Services Consumer Panel and the Office of Communications (Ofcom) Consumer Panel, for example, are also statutory bodies with their own members and chair, but they depend on their respective sectoral regulators for accommodation, support staff and budget.
34. Consumer Voice will take over the specific duties currently attributed to sectoral consumer bodies. These duties will need to include input into price reviews, monitoring post office closures, and other proposals that would have a major impact on consumers. The arrangements to establish Consumer Voice will also take account of the need to retain sectoral expertise.
35. It is envisaged that Consumer Direct will be a single point of contact for consumers with enquiries or simple complaints, and more complex complaints will be referred to redress schemes for resolution. However, there is still a role for Consumer Voice to provide ongoing support to those consumers who require help articulating or progressing their complaint with the company concerned, and before it is appropriate to refer the complaint to the redress scheme.
36. There will also be a role for Consumer Voice to develop strong partnerships with other relevant organisations and agencies to better understand the issues that face consumers within local communities, who might otherwise be missed.
37. Under option 1, the new Consumer Voice body would incorporate the following existing consumer organisations^{14, 15}:

¹⁴ The government recently carried out a fundamental review of rail regulation, which included reorganising consumer representation in that sector. We therefore do not propose to change the arrangements in rail, or include the rail sector within the proposals at this stage.

¹⁵ The Consumer Council for Water (CCWater) was established on 1 October 2005, when it replaced WaterVoice as the consumer body for the water sector. It was set up under the provisions of the Water Act 2003, and has important new functions, including functions in relation to water saving and sustainable development. In recognition of the need for the new body to establish itself, and to tackle the objectives that it has been given, it is not proposed that CCWater should be part of the initial tranche of sectoral consumer bodies to be incorporated in the new arrangements. We will undertake a further public consultation in 2008, to assess the views of stakeholders in the water sector at that time on whether CCWater should be included at a future date. In Scotland, customer interests are covered by the Water Industry Commission for Scotland and the Convener of Scottish Customer Consultation Panels.

- the National Consumer Council (NCC);
- energywatch;
- Postwatch;
- the Financial Services Consumer Panel; and
- the Ofcom Consumer Panel.

New redress scheme(s)

38. Where the consumer has been unable to resolve a complaint with the supplier or service provider, Consumer Direct would – under the new model – refer consumers to new redress schemes for resolution. All companies in each of the sectors included within the proposals¹⁶ would need to belong to a redress scheme. Redress schemes already operate in the electronic communications, energy and financial services sectors, and provide a real incentive for companies to deal effectively with consumer complaints, because onward referral to the redress scheme is costly to the company for each complaint referred.
39. Each redress scheme would have powers to resolve completely all referred complaints. Decisions would be binding on companies (but not on consumers), and specific redress and compensation could be awarded when appropriate. Consumer bodies cannot do this using their statutory powers. It is worth noting that in their response to the recent supercomplaint on billing by energywatch, one of Ofgem’s recommendations was that the industry should set up an ombudsman scheme to deal with billing. The Energy Retail Association have subsequently established the Energy Supply Ombudsman service (from 1 July 2006) to handle complaints related to energy billing and transfers.
40. The consumer representation and redress consultation document set out a number of different options for the proposed redress scheme(s): a separate redress scheme for each sector; a single redress scheme for all regulated sectors; and a model similar to that which currently exists in the electronic communications sector. Nearly all respondents to the consultation agreed that extending redress schemes to cover energy complaints not currently handled by the Energy Supply Ombudsman scheme and all complaints in the postal services sector would be beneficial, and a small majority agreed that the flexibility of the electronic communications model would be the preferred option.
41. With this approach, companies may choose to come together to establish a redress scheme; gain regulatory approval and operate

¹⁶ Gas, electricity, postal services, financial services and electronic communications.

the scheme subject to regular reviews by the regulator. The requirement for approval and monitoring by the regulator permits control over the standards of the redress scheme(s) to ensure that standards are kept at or above approved levels. Co-ordination would be necessary to ensure that redress schemes that cover more than one regulated sector would be acceptable to all the relevant regulators without having to undergo separate assessments.

42. This approach would provide a legal requirement for firms in the energy and postal services sectors to belong to a redress scheme, but would not specify a particular scheme, other than it must be approved by the regulator. The main benefit of this approach is its inherent flexibility – companies may either join an existing scheme, or alternatively to set up their own scheme if existing redress services are not deemed to be appropriate for the requirements of their particular sector.
43. A concern that was raised by a number of respondents to the recent consultation was the possibility that this approach permits of a plethora of competing redress schemes being set up in each sector. However, the opportunity to take advantage of existing infrastructure and expertise of established redress schemes, as well as the potential for benefiting from economies of scope and scale, should create a disincentive for companies to establish a number of individual schemes. This is backed up by the need for approval by a regulator which should also guard against any undue proliferation of schemes.

Option 2: Bring together consumer representation to form a stronger body (“Consumer Voice”) incorporating expert panels, and create a redress scheme(s) for the regulated sectors.

44. Option 2 is similar to option 1 in that it would rely on Consumer Direct as a single point of contact for consumers with enquiries and simple complaints; it would consolidate the existing consumer bodies to form a stronger and more coherent consumer advocacy body; and it would create redress scheme(s) for the regulated sectors included within the proposals.
45. However, compared to option 1, this option allows for Consumer Voice to maintain expert panels for the regulated sectors. Like the existing consumer panels, these expert panels would be experts in a particular sector, able to input specialist information and advice to Consumer Voice as required. They would not have a consumer facing role. However, unlike the consumer panels, which are located within the relevant regulator and provide advice directly to the regulator on the consumer interest, the expert panels would be located within the consumer body – Consumer Voice – and would

provide specific sectoral consumer advice to Consumer Voice rather than the sectoral regulator.

Option 3: Bring together consumer representation to form a stronger body ("Consumer Voice") excluding the existing consumer panels, and create a redress scheme(s) for the regulated sectors.

46. **Option 3 is the preferred option.** This has been informed by the responses to the consultation which ended on 19 April 2006, as well as the results of the due diligence analysis undertaken by KPMG on behalf of the DTI. This due diligence exercise produced estimates for the costs and benefits associated with implementing each of the three main options, as given in the relevant sections below.
47. Like option 1, option 3 would consolidate the consumer bodies into a stronger organisation and create redress scheme(s) for the regulated sectors. The only difference in option 3 is that the regulator's consumer panels would be excluded from consolidation into Consumer Voice. The consumer panels can generally be characterised as having a different function from the statutory independent consumer bodies: statutory independent consumer bodies conduct a full range of services aimed directly at the consumer, whereas consumer panels primarily provide advice to the relevant sectoral regulator on the consumer interest. For example, they do not provide advice to consumers or engage in assisting with the resolution of complaints.
48. Where regulators do not currently have an integrated consumer panel, this option would leave open the possibility for (but not oblige) sectoral regulators to establish and maintain their own in-house expert consumer panel to provide them with advice on consumer issues in their sector.
49. Whilst these consumer panels would remain separate from the consolidated consumer advocacy body, **Consumer Voice would still be responsible for representing consumers in all sectors**, including those where the regulators retain their consumer panels.

Option 4: Retain the current system of consumer representation.

50. This option would retain the existing system of consumer advocacy, consisting of separate consumer bodies for essential services, including the National Consumer Council, the Financial Services Consumer Panel and the Ofcom Consumer Panel. It would not address the three issues identified with the current system of consumer representation outlined in paragraphs 17 – 20 above.

Option 5: Bring together consumer representation to form a stronger body, but do not establish redress schemes.

51. This option would change the current system of consumer advocacy to provide:
- a **single point of contact** for consumers in the form of Consumer Direct to provide information and advice on all sectors; and
 - a **new consumer advocacy body** which brings together all the sectoral consumer representation roles with that of the National Consumer Council to represent consumers in all markets. However, this body would not have powers to enforce resolution of complaints – specific redress and compensation could not be awarded.
52. Sector specific expertise would need to be maintained, but common ‘back office’ functions could be undertaken by a single team, working for all the business sectors included within the new body.
53. The existing redress schemes in electronic communications and financial services would not be affected by the proposals and would continue to operate as they do currently. As now, industry would be free to establish redress schemes, but there would be no regulatory obligation to do so.

Devolution

54. We propose that the new body has a UK-wide remit, but with certain territorial limitations. Currently, the remit of the NCC (and its associates, the Welsh and Scottish Consumer Councils) is to cover the whole of the United Kingdom, working closely with the General Consumer Council for Northern Ireland (GCCNI). Postwatch also has a remit to represent consumers throughout the United Kingdom. This compares with energywatch which covers Great Britain only – energy consumers in Northern Ireland are represented by the GCCNI. It is therefore proposed that the new consumer advocacy body continues to represent postal services consumers in Northern Ireland.

Funding

55. We propose that the costs of the new consumer advocacy body will be met partly through Government funding (grant-in-aid) and partly from licence fees (sectoral consumer bodies are currently funded through licence fees). These licence fees will be collected from those sectors with consumer bodies that will be consolidated with the National Consumer Council i.e. initially from the energy and

postal services sectors, and later from service providers in other sectors who may be brought within the proposals at a later date (such as the water sector). This is in order to reflect the specific sectoral functions that the new consumer advocacy body will be taking over from the sectoral consumer bodies.

56. We propose that the extension to Consumer Direct to provide advice on the energy and postal services sectors will also be funded by the relevant industry sector. Funding of the redress scheme(s) will be left for industry to agree within the chosen scheme, but will likely be funded by companies partly by subscription, and partly on a per complaint basis.

Business Sectors and Groups Affected

57. The business sectors initially affected by the preferred option – option 3 – are the gas and electricity sectors and the postal services sector (this option leaves the consumer representation arrangements in the financial services and electronic communications sectors unchanged). The proposals will affect all businesses within these industries, but should not affect particular groups of firms within these sectors any more than others (depending on the system of funding of the redress scheme(s) which companies themselves will need to decide and agree upon, and which will need to be approved by the sectoral regulator).
58. The proposed system would also affect all gas, electricity and postal services consumers. Consumer representation would be brought up to a consistent level across the sectors affected, and should not diminish for consumers in any sector.
59. We will also consult on the inclusion of the water sector in the proposals in 2008. If there is agreement to bring water within the proposals at that time, this would affect all water suppliers and all water customers in a similar way to the energy and postal services sectors.

Benefits¹⁷

Option 1: Bring together consumer representation to form a stronger body (“Consumer Voice”) and create a redress scheme(s) for the regulated sectors.

60. One benefit of this option would be to create efficiency savings in the form of economies of scope and scale, as all common functions

¹⁷ All estimates of the benefits (and the cost figures given in the following section) are given in real terms, in 2006 prices.

of the existing consumer bodies are undertaken by one body. This should allow for a significant reduction in the overall cost of consumer representation, which could be achieved in three main ways – moving complaints handling from the consumer bodies into redress schemes; consolidating the existing consumer bodies into a stronger consumer advocate (Consumer Voice); and reducing the number of regional offices.

Complaints handling

61. Analysis by KPMG¹⁸ on behalf of the DTI produced an estimate of the current cost of complaints handling within energywatch and Postwatch (the NCC, the Ofcom Consumer Panel and the Financial Services Consumer Panel do not handle complaints). This estimate took account of dedicated staff costs including call centres and dedicated consumer advisors responsible for more complex complaints. The total cost of complaints handling at energywatch and Postwatch in 2005/06 was estimated to be about £5.3 million.
62. Taking complaints handling out of the remit of the consumer body will therefore reduce costs by £5.3 million, which will be partially offset by the cost to Consumer Direct in expanding the scope of its service to cover more sectors, and a cost to industry of establishing a redress scheme(s). These costs are estimated to amount to about £4.3 million (see the section on costs below for details) giving a net saving from complaints handling of about £1 million per annum.

Consolidating the existing consumer bodies

63. Consolidating the separate consumer bodies into a stronger consumer advocacy body (Consumer Voice) will reduce overall running costs by exploiting economies of scale and scope. The analysis by KPMG referred to above suggests that there could be non-staff cost savings in relation to the consolidation of administrative functions, integrated information technology systems, and the termination of redundant outsourced service contracts.
64. In terms of staff cost efficiencies, the remit of Consumer Voice will include the sectoral functions that are currently undertaken by energywatch and Postwatch, such as engaging with the sectoral regulators in the development of policy to ensure that consumers are fairly represented in any proposals and monitoring the closure of post offices. The new body will therefore need sufficient staff to be an effective consumer advocate across all markets, as well as to

¹⁸ The KPMG analysis is based on information obtained from the consumer bodies in January to March 2006.

undertake specific sectoral functions in the energy and postal sectors.

65. In addition, it is envisaged that a team will need to be established that can assist those consumers who need help articulating and progressing their complaint with the company (over and above the help provided by Consumer Direct), as well as providing immediate help and support for consumers facing disconnection by their energy supplier. Further, Consumer Voice is assumed to maintain a team to work with local organisations and agencies, working with local communities to reach consumers who may otherwise be missed.
66. However, staff efficiencies can still be achieved in the areas of complaints handling (which will be taken up by Consumer Direct and the redress scheme(s), the costs of which are set out in the section on costs below) and posts where there is currently an overlap in duties when the existing consumer bodies are consolidated.
67. The KPMG analysis suggests that the consolidation of these duplicated staff members could amount to monetary savings of about £2.7 million per annum. The analysis also suggests that the consolidation of information technology and administrative expenses could save about £3.5 million per annum. By consolidating the existing consumer panels into Consumer Voice, the total budget of the two panels (£1.6 million per annum) would also be saved, resulting in savings overall for option 1 from the consolidation of office resources of about £8 million¹⁹ per annum.

Reducing the number of regional offices

68. The current spread of national and regional offices across the consumer bodies is expensive to maintain, and is sub-optimal in terms of effectiveness. For example, in 2003/04 the regional office network accounted for 59% of the energywatch budget and 34% of the Postwatch budget²⁰.
69. Regional complaint handling prevents the exploitation of economies of scale and risks dissipation of effort and duplication of resources. It also requires strong central management and control to ensure effective communication across the organisation.
70. However, a regional dimension to consumer representation may be said to assist with delivery of consumer awareness and education

¹⁹ Figures rounded to nearest £0.1 million.

²⁰ DTI and HM Treasury report, July 2004, "Consumer Representation in Regulated Industries" (available at <http://www.dti.gov.uk/files/file25252.pdf>).

programmes; regional communications functions; and maintenance of relationships with the regional media.

71. But in practice, the network of regional offices can never be so large or well-staffed as to reach into all parts of the region. Delivery is often undertaken in association with other bodies with a local presence in all areas, such as Help the Aged or local authorities. Regional committees may add considerable value, but it is not apparent that each committee needs to be supported by a regional office.
72. Over the last few years, all sectoral consumer bodies with a regional presence²¹ have considered programmes of rationalisation of their regional offices, with a view to substantially reducing either the number of staff, the number of offices, or both.
73. These moves, together with the proposal to handle complaints in new redress schemes, remove much of the justification for retention of regional office networks. It is therefore proposed that Consumer Voice retains three offices for England, Scotland and Wales, and that the existing Scottish and Welsh Consumer Councils (as associates of the NCC) are brought within the new structure. In addition, it is envisaged that an office in Northern Ireland would be necessary to deliver the UK-wide remit of Postwatch (for options 1, 2, 3, and 5) and the Ofcom Consumer Panel (for options 1, 2 and 5) as constituent bodies of Consumer Voice²².
74. Maintaining only four permanent offices will reduce ongoing property costs compared to the current position. However, the existing consumer bodies currently have lease commitments that extend further than the proposed implementation date of 2007 – 2009. The KPMG analysis on behalf of the DTI considered the length and cost of each lease held by the consumer bodies, and whether there existed either a break clause, or the opportunity to sub-let the property (and whether this would result in a saving or a loss, given the current open market rental values). Given the need to retain offices for Consumer Voice in England, Scotland and Wales (and Northern Ireland to cover postal services), and the assumptions made about the size and structure of the new body, the analysis concluded that net property cost savings could amount to about £1.5 million in 2008/09, rising to about £2.5 million per annum from 2015/16 as existing redundant property leases come to an end.

²¹ Energywatch, Postwatch and WaterVoice (now Consumer Council for Water).

²² It is not part of these proposals to make any changes to the General Consumer Council for Northern Ireland, which already covers a very wide range of consumer issues, including energy, water, transport, and education.

75. Overall, as an indication of the level of the **net annual cost savings** as a result of these proposals, we could expect to save about:
- £1 million on complaint handling;
 - an additional £8 million on consolidation of offices and staff; and
 - an additional £1.5 million (rising to £2.5 million) from the reduction in property costs.

This provides total **net ongoing savings for option 1 of about £10.5 million per annum**, increasing to £11.2 million by 2015/16 as redundant property leases come to an end.

76. It should be noted that this would represent a saving to industry (and ultimately consumers) and not a saving to Government, as sectoral bodies are funded by the individual industries that, in turn, recover their costs from consumers.
77. One respondent to the consultation (Postwatch), suggested that there exists the potential to make monetary savings against the cost of the current system in areas such as accommodation, support services, and reducing physical regional presence. Further, work already being undertaken under the Consumer Action Network (CAN) umbrella suggests that substantial levels of savings could be achieved in these categories simply by sharing overheads, without dismantling existing structures and merging consumer bodies.
78. However, while some of the cost savings may be achieved by consolidating existing back office functions, we believe that the proposals bring about greater benefits to consumers than simply saving money.
79. For example, option 1 would create a simpler line of communication between a complainant in the regulated sectors and a consumer advice service in the form of Consumer Direct.
80. The consolidation of fragmented consumer representation into a more effective and coherent body would also provide a powerful consumer advocate, able to address consumer issues that frequently exist across sectors of the economy. It would bring a number of specific benefits, including the critical mass to engage effectively with Government, regulators and industry sectors, on the basis of expert and informed analysis, as well as the benefit of being able to draw on experience and expertise from a number of sectors. Responsibility and authority to speak for consumers would

rest with one organisation, thus providing a stronger and more effective policy voice in the UK and EU.

81. In addition, extending the availability of redress schemes from electronic communications and financial services to postal services and the remaining energy complaints not already within the jurisdiction of the existing Energy Supply Ombudsman scheme, would also be intended to produce the following benefits for consumers:

- strong incentive for companies themselves to resolve complaints effectively and efficiently;
- consumers have certainty of resolution of a complaint, as decisions are binding on the companies (but not on the consumer);
- compensation and redress for consumers where this is warranted;
- quicker resolution of complaints for consumers as companies would have to resolve the complaint within a set period of time or the complainant could go to the redress scheme. Redress schemes, in general, get complaints resolved quicker than the courts as they have targets on the time taken to make a decision on a case; and
- the service is entirely free to consumers.

82. There will also be benefits for companies as members of a redress scheme, such as:

- consumer access to a redress scheme that can offer certainty of redress will enhance their confidence in purchasing a service should the situation arise whereby the customer has a complaint with the service received;
- in more competitive markets, treating complaints seriously and having a reputation for excellent customer service may be a deciding factor for customers when choosing a provider;
- the cost of the redress scheme(s) is borne by the relevant companies who therefore gain control of the administrative costs of complaints resolution;
- a redress scheme will provide a valuable way of resolving burdensome and difficult complaints – in the long run it

may save time and resource to have a dispute dealt with outside the company; and

- the investigation of a complaint may throw light on company practice or systems which it is in the interests of the provider to change.

83. Currently, the number of complaints directed to the sectoral consumer bodies (as opposed to being resolved directly with the company involved) places a considerable burden on these consumer bodies. Experience from the financial services and electronic communications sectors has shown that service providers have a very strong incentive to resolve customer complaints effectively if a redress scheme exists that is funded by subscriptions from companies and/or by charging companies directly for each complaint referred.

84. Compared to option 3, option 1 would also have the advantages of:

- clear delivery of the objective to strengthen and streamline consumer representation; and
- delivery of greater cohesion and coherence for consumer advocacy.

Option 2: Bring together consumer representation to form a stronger body ("Consumer Voice") incorporating expert panels, and create a redress scheme(s) for the regulated sectors.

85. In addition to the benefits for option 1 (outlined above), this option would provide Consumer Voice with panels of experts in each of the regulated sectors to offer expert or technical input as required. This may be particularly valuable given that the proposed remit of Consumer Voice is to look across all sectors of the economy. The particular sectors in which expert panels would need to be established would be left to Consumer Voice to determine.

86. However, in order to provide an estimate of the costs of option 2, an assumption has been made whereby Consumer Voice establishes expert panels for the financial services, electronic communications, energy and postal services sectors. These panels are assumed to cost about an additional £0.4 million per annum. This reduces the savings from the consolidation of offices and staff to £7.6 million per annum, resulting in **net annual ongoing savings of about £10.1 million for option 2**, which will increase to £10.8 million by 2015/16 as leases for redundant properties come to an end.

Option 3: Bring together consumer representation to form a stronger body (“Consumer Voice”) excluding the existing consumer panels, and create a redress scheme(s) for the regulated sectors.

87. The monetary benefits in terms of the cost savings for option 3 are slightly lower than options 1 and 2 as cost savings from the consolidation of the Ofcom and Financial Services Consumer Panels are not available. The cost of the two consumer panels currently amounts to about £1.6 million. This option envisages that the budgets of the existing consumer panels remain at current levels. Thus this option would result in **net ongoing savings of about £8.9 million per annum**, increasing to about £9.6 million per annum by 2015/16 as redundant property leases come to an end.
88. In addition, this option could involve the cost of establishing a consumer panel for energy (to sit within Ofgem) and for postal services (to sit within Postcomm). However, it is not proposed that the establishment of these panels is obligatory. If Ofgem and Postcomm both decide to create a consumer panel for their respective sectors, this could reduce the cost savings associated with this option by about £0.3 million per annum.
89. This option would allow for the retention (or adoption) of specialist consumer panels by the sectoral regulators, and we consider that the advantages of maintaining the regulator facing role undertaken by the consumer panels outweighs the lower cost savings achieved under this option.
90. Consumer panels primarily provide advice direct to the relevant sectoral regulator on the consumer interest at an early stage in the development of proposals by the regulator. They do not provide advice to consumers, or engage in assisting the resolution of complaints, for example, which are generally functions of statutory independent consumer bodies (such as energywatch and Postwatch). However, both roles are considered to be very valuable for effective consumer representation within a sector. Option 3 allows for both roles to be undertaken in all of the regulated utility sectors.
91. This option would also enhance existing consumer advocacy in those sectors where there is no consumer body with a direct consumer relationship, and it would retain or create expertise in individual sectors where necessary. We propose to facilitate the ongoing co-ordination between the consumer panels and Consumer Voice through cross-appointments.
92. In response to the consultation, both Ofcom and the Financial Services Authority strongly emphasised the benefits that they

believe the existence of the consumer panels in these sectors have brought for consumers. Both regulators stated that the panels' position within the regulator enabled those panels to provide essential and ongoing advice and challenge at a formative stage in the development of regulatory policy. This then helps to ensure that the consumer interest is effectively built in as the regulators develop and shape their proposals, in addition to the formal consultation process.

93. Examples of these benefits cited included the Ofcom Consumer Panel's evidence-based advice on how the needs of vulnerable groups should be addressed in the run-up to digital switchover, and the Financial Services Consumer Panel's valuable input in influencing the FSA's response to EU initiatives on mortgage regulation and the development of the FSA's 'basic advice' regime.

Option 4: Retain the current system of consumer representation.

94. This option would not result in any additional benefits. However, it would avoid any one-off costs associated with the other options, but would also therefore not achieve the potential ongoing efficiency savings or consumer benefits associated with the alternative options.

Option 5: Bring together consumer representation to form a stronger body, but do not establish redress schemes.

95. This option would provide a single point of contact (Consumer Direct) for consumers in the regulated sectors with a simpler, clearer line of communication for making enquiries and resolving simple complaints. It would also create a powerful consumer advocate body to engage effectively with Government, regulators and industry, and could result in potential cost economies.
96. Compared to option 1, this option would save industry the cost of establishing and funding a redress scheme(s). However, this saving would be offset by the cost of handling complaints in a different body. Further, this option would not provide an incentive for companies to handle complaints themselves, and consumer benefit would not be maximised: the consolidated consumer body would not possess the powers to enforce the resolution of complaints or force a redress.
97. The responses to the consultation were generally strongly in favour of the principle of extending redress scheme(s) to the energy and postal services sectors. The benefits of this option have therefore not been developed further.

Costs

Option 1: Bring together consumer representation to form a stronger body ("Consumer Voice") and create a redress scheme(s) for the regulated sectors.

Policy costs

98. The analysis undertaken by KPMG on behalf of the DTI has estimated that the **one-off implementation costs of option 1 would amount to about £8.7 million²³** in the year of implementation. These one-off implementation costs are made up of:
- change management costs in order to establish Consumer Voice, including project management of the change process and the integration of existing information technology and human resources in the separate organisations;
 - redundancy (and possibly recruitment) costs;
 - set-up costs (development and start-up) for a redress scheme(s) to cover the remaining energy complaints not already within the jurisdiction of the existing Energy Supply Ombudsman scheme and all complaints in the postal services sector; and
 - the cost of migrating the existing databases used by energywatch and Postwatch to the National Case Handling System operated by Consumer Direct.
99. In terms of the potential ongoing annual cost of the proposals, there would be a running cost for Consumer Voice, as well as an additional cost to Consumer Direct to extend its coverage to include enquiries and simple complaints from the energy and postal services sectors, and a cost to industry of funding the new redress scheme(s) in these sectors.
100. On behalf of the DTI, KPMG produced an initial estimate of the additional cost to Consumer Direct as a result of the proposals, and we will be working with the OFT to refine this figure. The initial estimate takes into account the increase in the volume of telephone calls and letters/emails expected to be received, based on the number of enquiries received by energywatch and Postwatch in 2005/06. The average call length to Consumer Direct is longer than the current average call length to energywatch. However, it has been assumed that Consumer Direct will take the same amount of time to answer energy and postal enquiries and help with complaints as their current average for other sectors, based on the

²³ This estimate is based on a number of assumptions that have been made for modelling purposes only. For example, an assumption has had to be made on the structure and therefore the number of staff and the resource requirements of the new organisation.

procedures in place at Consumer Direct that are not envisaged to change as a result of the proposals.

101. The cost to Consumer Direct of handling enquiries by letter or email is higher than the cost of an enquiry by phone. Using the split between written and telephone enquiries currently received by energywatch and Postwatch, the annual cost to Consumer Direct of expanding its service to cover energy and postal enquiries is estimated to be **about £2.1 million per annum**. However, Consumer Direct will continue to market their telephone service in preference to dealing with written enquiries. If enquiries were to be received by Consumer Direct in the same format as they are currently (with 98% of enquiries by telephone), this cost would reduce to about **£1.8 million per annum**.
102. The estimate of the cost of extending redress services to the energy and postal services sectors takes account of the existence of the Energy Supply Ombudsman scheme established by the Energy Retail Association on 1 July 2006. It also assumes that the number of complaints to reach the redress scheme(s) does not fall from the levels received by energywatch and Postwatch in 2005/06²⁴. The KPMG estimate suggests an ongoing cost to industry of the redress scheme(s) of **about £2.2 million per annum**. This compares to the electronic communications ombudsman, Otelo, which had administrative expenses totalling £1.4 million in 2005²⁵.
103. In terms of the running costs of Consumer Voice, a number of assumptions were made for the purpose of analysing the costs and benefits associated with the proposals, such as the structure of the new body, including staff numbers. Estimates of the potential cost savings compared to the cost of the existing system of consumer representation are given in the section on benefits above. The projected cost of the existing system from 2007/08 is £27 million²⁶. The benefits section above sets out the estimated net cost savings for option 1, which amount to about £10.5 million per annum. This gives an annual cost of the new system of consumer representation of about £16.5 million. This ongoing cost is made up of the additional cost to Consumer Direct (£2.1 million) and the redress scheme(s) for all remaining energy complaints and all postal

²⁴ In practice we might expect this number to decrease, given the incentive on firms to resolve complaints satisfactorily themselves in order to avoid paying the fee to the redress scheme.

²⁵ Otelo Annual Report 2005 (available at http://www.otelo.org.uk/UserFiles/File/Otelo_Annual_Report_2005.pdf?PHPSESSID=8f7a30addc6247afb677cfb6a9cfd1ba).

²⁶ Since the KPMG analysis was undertaken, adjusted indicative budgets for 2007/08 and 2008/09 have been agreed with Postwatch. This reduces the cost of the current system by £1.6m in 2007/08, and £1.75m in 2008/09, which would lower the cost savings achieved by the proposals compared to the cost of the current system. However, this will also reduce the cost of implementing the new system, as, for example, the cost of closing Postwatch's outsourced regional offices will already have been incurred.

services complaints (£2.2 million) (as set out above). This indicates a cost of the new Consumer Voice body for option 1 of **about £12.2 million per annum**.

104. Some of the respondents to the consultation expressed concern that the current role that existing consumer bodies fulfil in terms of helping customers articulate and progress their complaints (over and above the role of Consumer Direct and before complaints can be referred to the redress scheme) would be lost in the new arrangements. However, we propose that this role should be assigned to Consumer Voice, and the cost estimates above for Consumer Voice include the costs of a dedicated team to undertake this role.
105. Overall, therefore, option 1 is expected to incur **one-off implementation costs of about £8.7 million** in the year of implementation, with ongoing annual costs of about £16.5 million per annum. This compares to the cost of the existing system of about £27 million per annum, which gives rise to the cost savings of £10.5 million for option 1 outlined in the benefits section above.
106. The qualitative costs of this option include a concern that removing complaints handling from the consumer body removes the consumer advocate from having direct knowledge of issues of greatest importance to consumers. Consumer Direct, Consumer Voice and the redress schemes would need to ensure that there was provision for and existed good lines of communication and information flows between them, to ensure that this risk is not realised.
107. A further potential concern associated with this option is a loss of regional representation from the proposed reduction in the regional office network. As discussed above, while the current system of regional offices may not be providing sufficient value for money for consumers, the new system will need to ensure that where there is a real need for regional representation, this is maintained or improved by the proposed model.
108. There is a further possible concern that amalgamating the separate sectoral consumer bodies to form Consumer Voice and having a single customer facing organisation in the form of Consumer Direct will result in a loss of sectoral expertise in consumer representation. Perhaps as a result of this, there is a concern that the particular circumstances of individual sectors will be overlooked, particularly where a broadly based body tries to adopt general policies.
109. However, the new consumer body will be responsible for consumer advocacy in all sectors, and will therefore need to consider the

specific needs of consumers across all sectors in order to ensure that it is an effective advocacy body for all consumers. Consumer Voice will need to ensure that it has sufficient sectoral expertise where required; indeed, option 2 allows for the creation of expert panels within the consumer advocacy body, and option 3 envisages consumer panels sitting within the sectoral regulators who will be able to provide Consumer Voice with sectoral expertise as required. However, even within option 1, Consumer Voice will need to ensure that it has sufficient sectoral expertise to perform effectively.

Administrative costs

110. Under option 1, regulators who are accustomed to having an “in-house” consumer panel to provide advice would need to establish an effective relationship with the new body.
111. There may be some increase in costs to industry of improving their customer service to handle complaints themselves, rather than passing them on to the consumer bodies. However, this is arguably the proper responsibility of industry.
112. There may also be a marginal administrative cost for business in confirming their membership of a redress scheme with the relevant authority, although this is expected to be minimal. Similarly, there will be an additional cost to regulators of approving a redress scheme(s) (potentially a one-off cost, depending on the number of schemes approved).
113. Consumer Direct staff are already trained to deal with complaints across a wide range of sectors, and this existing training would need to be extended to cover the additional sectors.

Option 2: Bring together consumer representation to form a stronger body (“Consumer Voice”) incorporating expert panels, and create a redress scheme(s) for the regulated sectors.

114. As for option 1, the one-off implementation costs for option 2 would be expected to cost about **£8.7 million** in the year of implementation. However, in addition to the annual ongoing cost of option 1, option 2 would also include the cost of maintaining expert panels within Consumer Voice. The cost of maintaining expert panels in energy, postal services, electronic communications and financial services is estimated to cost in the region of £0.4 million per year. This suggests that the ongoing cost of option 2 would be about £16.9 million per annum (resulting in cost savings for option 2 over the current system of £10.1 million per annum, as outlined in the section on benefits above).

Option 3: Bring together consumer representation to form a stronger body (“Consumer Voice”) excluding the existing consumer panels, and create a redress scheme(s) for the regulated sectors.

115. The implementation cost of option 3 is estimated to amount to about the same as option 1, at **£8.7 million** in the year of implementation. The ongoing cost of option 3 differs from option 1 in that it includes the cost of maintaining the Ofcom and Financial Services consumer panels (about £1.6 million per annum). This suggests an ongoing cost of option 3 of about £18.1 million per annum (resulting in cost savings associated with option 3 over the current system of £8.9 million per annum, as outlined in the section on benefits above). If Ofgem and Postcomm both took up the opportunity to establish an internal consumer panel to advise the regulator directly on consumer issues in the energy and postal services sectors respectively, the annual cost of option 3 would be expected to increase by about £0.3 million.

116. There are also certain issues associated with this option that would need to be addressed:

- the need for clarity about the relative roles of Consumer Voice and a regulator’s consumer panel:
 - the panel would exist principally to advise the relevant regulators about the consumer interest, broadly as for the current consumer panels;
 - Consumer Voice could provide executive support for all panels for research, analysis, and outreach activities. Regulators would need to provide funding and resource for a consumer panel secretariat from within the regulator’s own administrative structure. As now, panels would be able to draw on additional specialist resource provided by regulators; and
 - Consumer Voice would be obliged to co-ordinate its outreach activities and education in consultation with the panels, regulators and the OFT.

- the need to be clear that the existence of a regulator’s consumer panel would not prevent Consumer Voice from being active on behalf of consumers in the relevant market.

117. In their response to the recent consultation, the Financial Services Authority raised a concern that there would be an additional cost to the Financial Services Consumer Panel of any new co-ordination arrangements with Consumer Voice. However, it is anticipated that the arrangements that the panel currently has with the NCC are simply maintained instead with Consumer Voice. We do not,

therefore, envisage that this will create any significant additional cost over and above that of maintaining the current system.

Option 4: Retain the current system of consumer representation.

118. This option would not result in a change to the existing cost of the system of consumer representation over and above the cost of maintaining the separate consumer bodies, projected to amount to about **£27 million** in 2007/08. Any potential efficiency savings, or benefits to consumers from improved consumer advocacy as a result of the proposed changes, will not be realised.

Option 5: Bring together consumer representation to form a stronger body, but do not establish redress schemes.

119. This option would involve implementation costs associated with consolidating the existing consumer bodies and creating the new consumer advocacy body, Consumer Voice. Compared to the other options, it would avoid the cost to industry of establishing a redress scheme(s). However, Consumer Voice would need to maintain complaints handling capability over and above the service offered to consumers by Consumer Direct (and that proposed for Consumer Voice in options 1, 2 and 3), due to the absence of redress schemes in key sectors.

120. Given that the responses to the consultation were strongly in favour of the principle of extending redress scheme(s) to the remaining energy complaints and all postal services complaints, the costs of this option have not been developed further.

Small Firms' Impact Test

121. The impact on small firms will depend on the system of funding the new redress scheme(s). Companies will be required only to belong to a redress scheme, which they can design and fund as agreed with other members of their scheme. The impact of the agreed system of funding on small firms will therefore depend on what they agree with other companies in their scheme.

122. Respondents to the recent consultation raised two main issues about the effect of the proposals on small firms. First, there was a concern that subscription fees payable to a redress scheme may not be proportionate to firm size, and therefore may have a disproportionate impact on small firms. While we do not intend to be prescriptive about any aspect of the redress schemes to which firms in the postal services sector and the energy sector (for complaints not already within the jurisdiction of the existing Energy Supply Ombudsman scheme) must belong, there will be a

requirement that each redress scheme must be approved by the relevant regulator. In doing so, regulators should follow the principles of good regulation, as set out by the Better Regulation Executive²⁷, such as proportionality and targeting to ensure that no unintended consequences will result from the regulation being implemented.

123. Existing redress schemes in the financial services and electronic communications sectors are funded partly by subscription and partly by a charge levied on the relevant service provider for each complaint referred. As an example, the telecommunications ombudsman, Otelo, recovers 80% of its budgeted costs through the per complaint charge, and only 20% through the subscription charge. Subscription fees are related to the retail value of the services and products covered by the ombudsman service. The lowest subscription fee is £100 a year. About 90% of the 200 members pay a fixed fee of between £100 and £750. If a small company has a relatively small customer base and offers good customer service that generates no demand for referral to the redress scheme, then that is all they will pay.
124. The second issue raised in response to the consultation concerned representation of small firms by the consumer advocacy body. Currently, for example, energywatch will provide help and advice to small businesses as well as to domestic energy consumers. We propose that the remit of Consumer Voice will be to represent all consumers, including small firms. It will be left to Consumer Voice to determine where and to whom the greatest detriment in each market falls, and therefore on which issues to concentrate its resources.
125. We therefore do not anticipate that these proposals will have any significant or complex impact on small firms within the sectors affected by the proposed changes.

Effect on competition

126. The results of the competition filter showed that there was no need to do a detailed assessment of the impact of these proposals on competition.
127. The proposed scheme will have an impact on all firms in the energy and postal services sectors in that they will all be required to be members of an approved redress scheme, and will therefore have to pay a fee to contribute towards the cost of the scheme. As industry

²⁷ See http://www.cabinetoffice.gov.uk/regulation/consultation/consultation_guidance/planning_a_consultation/principles_good_regulation.asp.

itself will be setting up the schemes, the fees will need to be agreed by all member firms.

128. It is therefore unlikely that the fees will be set at levels that will affect competition between firms in the same sector. If charges for a particular scheme are considered to be too high, firms will either have the option of joining a different scheme, or establishing a new one.
129. Those respondents who commented on the effect of the proposals on competition in their response to the recent consultation generally agreed that the proposals would not affect competition, or may even have a beneficial effect as companies' customer services are improved. However, a few respondents commented that redress scheme subscription charges that disproportionately affect small firms would be detrimental to competition. As stated above, any redress scheme will need to be approved by the relevant sectoral regulator who should follow the principles of good regulation to ensure that the risk of any such unintended consequence does not materialise.
130. One respondent also raised a concern that if small firms are asked to pay more for consumer representation, this could deter firms from entering the market or cause existing firms to withdraw from the market due to higher costs. However, the proposals do not envisage any sector paying more than they do currently – the cost for firms in the energy and postal services sectors will be significantly lower than the cost of the current system, and there will be no additional cost for firms in other sectors as a result of these proposals.
131. Overall, therefore, we do not anticipate that the proposed changes will have an effect on competition in any of the sectors affected by the proposals.

Enforcement and Sanctions

132. We propose to create a statutory requirement for every service provider in the gas, electricity and postal services sectors to belong to a redress scheme, which must be approved and enforced by a regulator. Enforcement should be in line with the Hampton principles of regulatory enforcement, as set out in the Hampton report²⁸. For example, regulators should provide authoritative, accessible advice about approved schemes easily and cheaply. Explicit consideration should be given to how membership can be

²⁸ March 2005, "Reducing administrative burdens: effective inspection and enforcement", available at <http://www.hm-treasury.gov.uk/media/A63/EF/bud05hamptonv1.pdf>.

enforced using existing systems to minimise the administrative burden imposed. Any businesses refusing to meet the requirement to belong to an approved redress scheme should be identified quickly, and face proportionate and meaningful sanctions.

Monitoring and Review

133. To ensure that the new arrangements provide all consumers with a more effective level of representation than the current arrangements, and that the other benefits outlined above are realised, it is vital that the new consumer advocacy body can add real value, and that this value can be demonstrated.
134. Performance measurement is an important method by which consumer bodies can monitor the progress of their organisation and the success of particular initiatives. This is a challenging area for all consumer bodies. It is often more straightforward to measure inputs, or processes, rather than those outcomes that are often most important. Unlike private sector companies, there are no simple metrics, such as profitability or shareholder value, by which different types of activity can be compared. In achieving policy change, it can be difficult to disentangle the impact of any one organisation on the final outcome. However, as with other consumer bodies, Consumer Voice and their Departmental spending team will need to develop meaningful measures of performance.
135. To address the complexities associated with this issue, the joint DTI/HM Treasury report on consumer representation²⁹ recommends that consumer bodies should have at least three levels of performance indicators:
- consumer bodies should ensure they monitor performance of operations. These indicators should be monitored over the longer term and should remain consistent in terms of measurement;
 - outcome-focused performance indicators should be set for specific campaigns or initiatives. At the outset of each initiative, desired outcomes should be defined and indicators should be identified by which it would be possible to evaluate whether or not outcomes have been achieved. For example, when initiating a particular campaign, consumer bodies need to ask themselves 'what success would look like' and how they intend to measure progress toward meeting their desired outcomes; and

²⁹ DTI and HM Treasury report, July 2004, "Consumer Representation in Regulated Industries" (available at <http://www.dti.gov.uk/files/file25252.pdf>).

- consumer bodies also need to measure impact at an aggregate level. To be effective, consumer bodies need to be heard and respected by their key stakeholders. Stakeholder surveys provide a useful benchmark and feedback loop from those organisations that consumer bodies are seeking to influence.
136. The PricewaterhouseCoopers benchmarking review of energywatch and Postwatch³⁰ identified the NCC's approach to measuring impact as best practice. The NCC measures their 'impact' – on decision makers, on legislation, and on consumers – and their 'reputation', as they consider that their reputation is directly related to the level of influence they are able to exert. To that end they have developed a hierarchy of performance measures and indicators for "Impact" and "Reputation", which aim to measure the outcomes of their work rather than focusing on outputs or processes.
137. Impact is measured on a case study basis. Individual project quality, impact, and degree of influence exerted, are assessed through a variety of sources, e.g. meetings with stakeholders, seeking formal and informal feedback from partners and stakeholders, press cuttings and media reports. This material is used to develop an internal assessment of the project, and subsequently an external adviser will review and assess the project.
138. In terms of its reputation, the NCC considers this a critical success factor for its ability to work with, and influence, opinion-formers and decision-makers in a range of policy sectors across the UK. It is measured through a series of qualitative and quantitative surveys on decision makers and partnering consumer organisations whose views are sought on a range of factors, such as effectiveness, profile, strengths and weaknesses, to derive an assessment of its reputation. These surveys are repeated on an annual basis.
139. Monitoring the effectiveness of the new consumer advocacy body will be a key task for Consumer Voice and their Departmental spending team. As is current practice with existing consumer bodies, we would expect the details of how this will be undertaken and the criteria against which the effectiveness of the new body will be assessed to be set out in Consumer Voice's Forward Work Programmes, and reported on within annual reports. Consumer Voice will be held to account for its performance against the priorities in this programme.

³⁰ PricewaterhouseCoopers, March 2004, "Benchmarking Review of Energywatch and Postwatch", available through <http://www.dti.gov.uk/bbf/competition-law/Competition%20Policy/Economic%20Regulation%20Team/index.html>.

Implementation and Delivery Plan

140. New primary legislation will be required to put these proposals into effect. Planning for implementation involving key stakeholders would commence once the necessary legislation has been introduced to Parliament. Within 6 months of Royal Assent, we expect to have made the appointments to the new body and for companies to have made significant progress towards establishing redress schemes. Within a year of Royal assent, we expect the redress schemes to be up and running and the new consumer body to have assumed the functions of energywatch, Postwatch and the NCC.

Summary and recommendation

141. **Our preferred approach is option 3.** This has been informed by the views of the respondents to the consultation which ended on 19 April 2006, as well as the results of the due diligence project undertaken on behalf of the DTI by KPMG.

Option	Benefits	Costs
<p>Option 1: Bring together consumer representation (including the existing consumer panels) to form a stronger body ("Consumer Voice") and create a redress scheme(s) for the energy and postal services sectors.</p>	<ul style="list-style-type: none"> - Consumer advocacy body has critical mass to engage effectively with Government, regulators and industry; - Delivery of greater cohesion and coherence for consumer advocacy; - Single point of contact for consumers (Consumer Direct); - Redress schemes to ensure redress for consumers and incentives on industry to resolve complaints themselves; - Net cost savings of about £10.5 million per annum from complaint handling, a reduction in the regional office networks and consolidation of offices and staff. 	<p>- One-off implementation costs of about £8.7 million in the year of implementation.</p>
<p>Option 2: Bring together consumer representation to form a stronger body ("Consumer Voice") incorporating expert panels, and create a redress scheme(s) for the energy and postal</p>	<ul style="list-style-type: none"> - Consumer advocacy body has critical mass to engage effectively with Government, regulators and industry; - Maintenance of sectoral expertise within the consumer advocacy body; - Single point of contact for 	<p>- One-off implementation costs of about £8.7 million in the year of implementation.</p>

services sectors.	<p>consumers (Consumer Direct);</p> <ul style="list-style-type: none"> - Redress schemes to ensure redress for consumers and incentives on industry to resolve complaints themselves; - Net cost savings of about £10.1 million per annum from complaint handling, a reduction in the regional office networks and consolidation of offices and staff. 	
<p>Option 3: Bring together consumer representation to form a stronger body ("Consumer Voice") excluding the existing consumer panels, and create a redress scheme(s) for the energy and postal services sectors.</p>	<ul style="list-style-type: none"> - Consumer advocacy body has critical mass to engage effectively with Government, regulators and industry; - Facilitates the adoption (or retention) of specialist consumer panels by sectoral regulators where they wish to do so; - Single point of contact for consumers (Consumer Direct); - Redress schemes to ensure redress for consumers and incentives on industry to resolve complaints themselves; - Net cost savings of about £8.9 million per annum from complaint handling, a reduction in the regional office networks and consolidation of offices and staff. 	<ul style="list-style-type: none"> - One-off implementation costs of about £8.7 million in the year of implementation.
<p>Option 4: Retain the current system of consumer representation.</p>	<ul style="list-style-type: none"> - No additional benefits. 	<ul style="list-style-type: none"> - No additional costs
<p>Option 5: Bring together consumer representation to form a stronger body, but do not establish redress schemes.</p>	<ul style="list-style-type: none"> - Single point of contact for consumers (Consumer Direct); - Consumer advocacy body has critical mass to engage effectively with Government, regulators and industry; - Potential efficiency savings from economies of scope and scale. 	<ul style="list-style-type: none"> - One-off implementation costs - No powers to ensure redress to consumers where warranted.

142. The recommended option would strengthen and streamline consumer representation by:

- utilising Consumer Direct as a single point of contact for all consumers;

- consolidating the sectoral and national consumer bodies to form a more effective consumer advocate; and
- creating new redress services in the regulated sectors with the power to resolve consumer complaints. These schemes would be set up and financed by industry and monitored by the regulators.

143. We estimate that option 3 would involve an implementation cost of about £8.7 million in the year of implementation. However, it would also produce **net savings** of around £8.9 million per annum over the cost of the existing system of consumer representation, whilst still achieving the benefits of having a strong and effective consumer advocacy body (“Consumer Voice”). This option would further facilitate the adoption (or retention) of specialist consumer panels by sectoral regulators where they wished to do so, whilst providing for redress scheme(s) in the regulated sectors to ensure appropriate redress for consumers.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Ian McCartney, Minister of State for Trade, Investment and Foreign Affairs, Department of Trade and Industry

Contact

Any comments on this Regulatory Impact Assessment should be addressed to:

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