

dti

**STRENGTHEN AND STREAMLINE
CONSUMER ADVOCACY**

Consultation on consumer
representation and redress

JANUARY 2006

URN 06/682

Department of Trade and Industry
Consumer and Competition Policy Directorate
Economic Regulation Team

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About this consultation

The Department of Trade and Industry (DTI) undertook a public consultation on its draft Consumer Strategy in July 2004. Included in that consultation document were proposals designed to strengthen and streamline consumer representation in the regulated industries – the “sectoral consumer bodies”.

That consultation document set out a clear vision of the way in which the current, fragmented, range of consumer representative bodies could be brought together to provide a single, powerful, consumer advocacy body.

One, key, objective is to provide strong incentives for companies to take responsibility for resolving consumer complaints, or to pay directly for ombudsman services to resolve those complaints where the company and the consumer cannot reach an acceptable solution. As a complementary measure to the establishment of a single consumer advocacy body, it was proposed that the type of ombudsman services which apply to financial services and electronic communications could be applied to all utility services to provide redress and – where appropriate – compensation for consumers.

The Consumer Strategy, published on 21 June 2005, set out the Government’s commitment to undertake further work on these proposals:

“Strengthen and streamline consumer advocacy. As we set out in our consultation document *Extending Competitive Markets: Empowered Consumers, Successful Business*, the Government sees benefits in moving consumer representation in the regulated industries towards a single “National Utilities Consumer Council” model. This remains our view, and we will bring forward further details of possible plans and timetable later this year.”

This consultation document sets out the possible plans and timetable, and invites views by 19 April 2006.

In the same timescale, views are also invited on the Partial Regulatory Impact Assessment – see annex D.

Summary details of this consultation

Consultation document issued 25 January 2006

Responses requested by: 19 April 2006

Responses to: cv.consultation@dti.gsi.gov.uk

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Further details on how to respond, including important notes on confidentiality of responses, are provided in Section 4. Please refer to these notes before responding.

Further copies of this consultation may be obtained from the DTI website: www.dti.gov.uk/ccp/consultations.htm.

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Foreword

One of my key objectives is to ensure that the framework for consumer empowerment is at the level of the best by 2008. This is important as one of the means of securing fair, competitive, markets. Ideally, we all want innovative, dynamic, socially responsible companies operating in competitive and responsive markets. Achieving that ideal takes solid work. Well-informed, discerning consumers have a vital role in achieving that objective.

This Government has delivered on a programme of new initiatives to revitalise and re-focus the operation of markets, including specific measures to address utility markets and the way in which they are regulated. Consumer bodies play a crucial role in securing improved services for consumers and the development of competitive markets. The rollout of Consumer Direct over the past two years has established a new, highly successful model enabling consumers to access the advice and information that they need.

This consultation document contains proposals to move forward with consumer representation: to make it even more effective and coherent; to make it simpler and more accessible for consumers; and to ensure that it is more powerful and responsive to meet consumer needs. I hope that you will contribute to this important debate.



A handwritten signature in black ink that reads "Gerry Sutcliffe". The signature is written in a cursive style with a long horizontal stroke at the end.

Gerry Sutcliffe MP

Minister for Employment Relations and Consumer Affairs

1 Introduction

1.1 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 championing open, competitive markets wherever possible, to deliver that choice and to foster high standards and good value in our key markets.

1.2 The transfer of utilities, in particular, to the private sector, and the emergence of effective competition in many of these markets, have required sustained effort by Government and regulators to secure the development of these markets over a period which now stretches back some fifteen to twenty years. A step change was made to the growth of competition in 1996-99, when the domestic gas and electricity markets were liberalised. A further step forward was taken when the postal services sector became fully liberalised on 1 January 2006. And new regulatory initiatives together with new technology have combined to increase choice for consumers in the electronic communications sector.

1.3 Liberalisation of the markets for essential services, and the development of the regulatory regimes took place over a lengthy period. There was, at least, a common model: licensed companies overseen by an independent economic regulator, and a consumer body with duties in respect of each individual sector.

1.4 This led to the position we now find ourselves in today, where we have seven bodies – including the National Consumer Council (NCC) - who represent the consumer interest across a range of markets. Together, the seven have thirty offices, five hundred and forty nine staff, and a budget of £31.73m¹.

1.5 The consumer bodies certainly provide a valuable service on behalf of consumers, and have been responsible for initiatives to develop the operation of the markets. At the same time, they have participated in the processes of Government, sectoral regulators, and service providers to provide influential advice on the needs of consumers.

1.6 But the current framework has difficulties that can prevent consumers from getting the best from the processes and organisations designed to help them.

¹ Figures in this document refer to a baseline of 2003/4.

Consumer complaints

1.7 Many of the consumer bodies have statutory responsibilities to help resolve consumer complaints. Those who do have this responsibility have made – and continue to make each day – a huge effort to provide consumers with assistance and support, to the extent that (for example) in 2002/3 energywatch and Postwatch needed to devote respectively 34% and 23% of their budgets to handling complaints.

1.8 From the significant numbers of complaints referred to sectoral consumer bodies by consumers, it is obvious that the utility companies in the relevant markets are not resolving the complaints satisfactorily. We need to be clear that complaint resolution should be an important part of the service provided by suppliers to their customers.

1.9 Sectoral consumer bodies do not, however, have any powers to enforce resolution: they cannot order the service provider to provide compensation or redress. That is the role of an ombudsman, and it is the creation of new, separate, ombudsman services that form a key part of the proposals.

Consumer awareness of services and access to advice

1.10 Almost every household in the country is a consumer of all or most of the key services: water; electricity; gas; postal services; electronic communications; and financial services. For the majority of these markets, the consumer is the same person: each and every individual in the country. 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.

1.11 Promoting the existence of the sectoral 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. This is reflected in the objectives shown in the current 2005/6 Work Plans for both energywatch and Postwatch, who – even after five years serving the interests of consumers - both have objectives on the need to raise consumer awareness of their existence. Consumer awareness of services which are available to them is also registered as a concern by the Financial Services Consumer Panel, which used its 2004/5 Annual Report to call on the Financial Services Authority to allocate a larger budget to marketing, and to assess the effectiveness of its consumer communications.

1.12 At present, each sectoral consumer body needs to strive to make itself known to consumers, and each consumer is faced with a variety of

representative bodies with differing approaches and statutory responsibilities and powers. And yet service providers often operate across a range of markets. Many energy companies offer maintenance or home services or appliances in addition to offering both gas and electricity. Some offer gas, electricity and water, or gas, electricity and electronic communications services. Internet service, insurance, and general contracting are also offered by some utility companies. The operation and performance of these multi-service providers – in both sector-regulated and unregulated markets - are not covered by a single consumer representative body, but by two, three, or four different bodies.

Effective, coherent, representation

1.13 While companies increasingly offer a variety of regulated and unregulated² services to consumers, each sectoral consumer body can only deal with the aspect of a company's service to consumers that fall within its statutory duties. Sectoral regulators work together on issues of common interest, but although the Consumer Action Network³ 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.

1.14 In representing consumers, too, the fragmented nature of consumer representation in the UK means that there is not a single, coherent, voice for the consumer which can reflect priorities across the different markets, or which 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. But apart from specific sectoral fora, the UK needs to field several representatives from different consumer organisations in order to cover issues thoroughly.

Seeking improvements to our current framework

1.15 We need to build on the undoubted success and valuable experience of our current consumer bodies by re-appraising the framework within which consumer representation is delivered.

² "Unregulated" means that the services are not regulated by a specific sectoral regulator.

³ See paragraph 7.4 below.

1.16 Any new model for consumer representation needs to provide much greater:

- **clarity** and ease of use for consumers
- **effectiveness** and critical mass for the consumer representative body
- **flexibility** to respond to consumer concerns and to prioritise across the markets
- **effectiveness** in resolving (rather than just handling) consumer problems
- **value** for money for taxpayers and consumers.

1.17 In addition, a fundamental principle that should guide the development of a new model is that companies who provide services to consumers must take much greater responsibility for dealing with all aspects of that service provision. That means a step change in the responsibility of companies to service consumer enquiries; to provide advice about their services; and to resolve consumer complaints swiftly and effectively.

1.18 Complaints in utility sectors represent a very small proportion of the number of utility consumers overall, and the number of complaints to consumer bodies in some sectors have fallen from recent record levels. Nevertheless, Government believes that the number of complaints that need to be referred to consumer bodies for assistance in resolution remains still too high, and that it is for companies to assume greater – and proper – responsibility for resolving complaints without their customers being forced to turn to the consumer bodies.

2 Summary of proposals

The need for Consumer Representation

2.1 Increasing competition in many of the utility sectors 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 providing the high quality information and advice needed for consumers to take full advantage of competitive markets and to shop around to get the best deals available.

2.2 Influential consumer councils and well-informed consumers therefore have a vital transitional role to play in newly competitive markets in improving standards, 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.

2.3 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, Postcomm is required to promote effective competition where this is beneficial to consumers. The Financial Services Authority has regulatory objectives to maintain confidence in the financial system; to promote public understanding of the financial system; to secure the appropriate degree of protection for consumers; and reduce financial crime by authorised persons.

2.4 The essential nature of the services provided by the regulated markets⁴, 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. There are different forms of representation that consumers require. They value contact that can provide helpful information and advice. They may have

⁴ 'Regulated markets' are taken throughout this paper to mean those that have a sector specific regulator i.e. water, gas, electricity, postal services, air travel, electronic communications and financial services.

complaints that need resolution or redress. And they need their interests to be promoted in the formulation and implementation of the policy framework within which everything happens.

2.5 The proposals build on recommendations in the DTI draft consumer strategy and take into account the implications of the Hampton report⁵. The principles of simplification and re-focus on the needs of consumers are fundamental to the model.

2.6 An essential element of the strategic framework is to put much greater emphasis on companies to provide consumers with the high standards of service that they expect and demand.

2.7 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 ombudsman** schemes (already operating in electronic communications and financial services) to resolve complaints where service providers have not been able to do so
- **New “Consumer Voice”**, which would bring together the National Consumer Council and sectoral consumer bodies to represent the interests of consumers in all markets.

Consumer Direct

2.8 The new model would utilise Consumer Direct as the single point of contact for consumers. Consumer Direct is a telephone and online consumer advice service – created and supported by the Department of Trade and Industry – which is designed to deal with enquiries and simple complaints. The service is currently being rolled out across the country, with full coverage anticipated in 2006.

⁵ Philip Hampton's report *“Reducing Administrative Burdens: Effective Inspection and Enforcement”* was published alongside the Budget in March 2005. The Report recommended a comprehensive set of reforms to reduce the burden of regulation – with fewer regulatory bodies; streamlined and risk based approaches to inspection and enforcement; fewer and simpler forms; better use and quality of advice; and more appropriate penalty regimes. The Government accepted these recommendations in full.

New ombudsman schemes

2.9 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 Ombudsman schemes for resolution. Ombudsman schemes already operate in the electronic communications and financial services sectors, and provide a real incentive on companies to deal effectively with consumer complaints, because onward reference to the ombudsman is costly to the company for every single complaint. The Ombudsman would have powers completely to resolve any complaints referred: decisions are binding on companies (but not consumers); specific redress and compensation can 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.

New “Consumer Voice”

2.10 The new “Consumer Voice” would bring together specific duties and powers held by the existing sectoral consumer bodies with the National Consumer Council's remit as a wide-ranging single, independent, consumer champion, creating a powerful body, able to target resources appropriately to tackle consumer detriment wherever and whenever it emerges.

2.11 The main functions of Consumer Voice would be to represent consumers in all markets, and provide information and advice on the consumer perspective to business, to Government, and to sectoral regulators. Consumer Voice would undertake cross-sectoral research proactively to identify key consumer issues, and play a key role in formulation of public policy both in the UK and in Europe.

2.12 It is envisaged that Consumer Voice would take over specific duties currently attributed to sectoral consumer bodies, although the opportunity should be taken to rationalise these responsibilities where necessary. Sectoral duties that Consumer Voice would need to take on would include input into price reviews or other proposals that would have a major impact on consumers. The arrangements to establish Consumer Voice would take account of the need to retain sectoral expertise.

2.13 It was envisaged that Consumer Voice should sit alongside the new Consumer and Trading Standards Agency (CTSA) proposed by Hampton. However, the Chancellor in his 2005 Pre-Budget Report announced that the Government would instead establish a new Local

Better Regulation Office (LBRO). This will build on the work of the Local Authority Better Regulation Group and initial proposals for the CTSA.

2.14 The LBRO will not be a new regulator. It will be a body explicitly tasked with the duty to minimise burdens on business and work in partnership with local authorities and the national regulators to deliver a risk-based approach to business inspection and enforcement.

2.15 The Office of Fair Trading (OFT) will take on some of the roles envisaged for the CTSA by Hampton. The OFT will become the centre of intelligence on consumer issues, and it will work with the other national regulators and LBRO to drive through the Hampton principles in Trading Standards. It will also ensure interventions on business are both coordinated and based on proper assessment of risk and that resources are focused on those issues that matter most to consumers.

2.16 Under these new proposals, it is anticipated that the OFT will continue its role of enforcing consumer legislation. Consumer Voice would be a consumer advocate, 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. Complaints data flowing back to Consumer Voice from Consumer Direct and the ombudsman will be a key input to the advocacy work. Consumer Direct and sectoral consumer bodies already co-operate together on operational matters.

2.17 It is proposed that the new Consumer Voice should incorporate the National Consumer Council and parts of some or all of the following existing consumer organisations:

- energywatch
- Postwatch
- The Financial Services Consumer Panel
- The Ofcom Consumer Panel

2.18 The Consumer Council for Water (CCWater) was established on 1 October 2005, when it replaced WaterVoice as the consumer body for the water sector in England and Wales. 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 important new objectives which 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 propose to undertake a further public consultation in 2008, to assess the views of water stakeholders at that time, and to consider 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.

2.19 The consolidation of fragmented consumer representation into a single, coherent, body would 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; and the benefit of being able to draw on experience and expertise from a number of sectors. The new structure should also allow a reduction in the overall cost of consumer representation⁶.

2.20 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"⁷, and it was consulted on in the DTI draft Consumer Strategy⁸. The proposals followed a detailed investigation of sectoral consumer representation, which attempted to identify best practice across a number of sectors. The DTI/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 single Consumer Voice body would be an important step in carrying through the report's recommendations and delivering on the Consumer Strategy.

2.21 Assessment of the current provision for consumer representation was aided by a Benchmarking Survey of energywatch and Postwatch which was undertaken for DTI, HM Treasury, and the National Audit Office by PricewaterhouseCoopers. The National Audit Office also published a separate, independent, report on energywatch and Postwatch.

⁶ See paragraph 7.38 below for a summary of current funding methods.

⁷ Copies of this report, and related documents (PricewaterhouseCoopers Benchmarking Survey) are available at www.dti.gov.uk/ccp/topics2/economic_regulation.htm

⁸ "Extending Competitive Markets: Empowered Consumers, Successful Business" (published 14 July 2004; consultation ended 31 October 2004)

3 Summary of questions

Q1 Do you agree that companies who provide services should have complete responsibility towards their customers, including the resolution of complaints? To what extent do you consider that companies currently fail to do this?

Q2 Do you consider that additional incentives need to be placed on suppliers in order to secure improved standards in handling consumer enquiries and complaints? If so, what form should these incentives take (licence obligations; statutory targets; etc)?

Q3 Do you agree that it would be beneficial to extend complaint resolution through ombudsman schemes to electricity, gas, and postal services?

Q4 Do you agree that the electronic communications model is to be preferred, with service providers being obliged to belong to an ombudsman scheme, but leaving it to the companies to come up with their own scheme (or join an existing scheme) subject to regulatory approval?

Q5 Which of the strategic models do you prefer, and why?

Q6 Do you agree that the benefits to consumers will be diminished by the exclusion of any of the bodies listed?

Q7 Do you agree that Consumer Voice should have a UK-wide role, but with restricted scope in some areas?

Q8 Do you agree that offices should be restricted to one in each of Scotland, England, and Wales? Should Consumer Voice have the powers to appoint regional committees?

Q9 Do you agree that funding should be made partly from Government and partly from those industries that contribute to the funding of sectoral consumer bodies at present?

Q10 Which duties and obligations on the sectoral consumer bodies should be transferred to Consumer Voice? Please give reasons.

Q11 Which of the interactions between the consumer body, regulator, and Government should be preserved and transferred to Consumer Voice? Please give reasons.

Summary of questions within the partial RIA

Q12 Do you agree with the initial estimates of the benefits of the proposed options? Please provide quantifiable evidence where possible to support your view.

Q13 Do you agree with the initial estimates of the costs of the proposed options? Please provide quantifiable evidence where possible to support your view.

Q14 Do you agree with the assessment of the impact of the proposals on small firms? We would welcome, in particular, comments from small firms on the impact of the proposals.

Q15 Do you agree with the assessment of the impact of the proposals on competition?

4 How to respond

The Department of Trade and Industry welcomes comments, including supporting evidence, by 19 April 2006.

When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Where possible please send responses by email only to the following address:

cv.consultation@dti.gsi.gov.uk

If you are not able to reply by email, a response can be submitted by letter or fax to:

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A list of those organisations and individuals consulted is at Annex C. We would welcome suggestions of others who you think may wish to be involved in this consultation process.

In addition to the questions raised in the consultation document we would welcome your views on the partial Regulatory Impact Assessment on the policy options for the proposed new arrangements. The partial Regulatory Impact Assessment is attached to this document.

Confidentiality of Responses

Your response may be made public by the DTI. If you do not want all or part of your response or name made public, please state this clearly in your response. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your

response for which confidentiality has been requested. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Help with Queries

Questions about the policy issues raised in the document should be addressed in the first instance to Mrs Shola Akinyamoju at the contact details given above.

Complaints

The Code of Practice on Consultation can be found as Annex B to this document. If you wish to make a complaint about, or comment on, the way in which this consultation has been conducted, please contact:

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As well as any answers to the specific questions asked, we would welcome any further views on the content of this consultation.

5 Consumer Direct

5.1 Consumer Direct is a telephone and online consumer advice service⁹, supported by the Department of Trade and Industry. It provides clear, practical, impartial advice to help consumers sort out problems and disagreements with suppliers of goods or services.

5.2 It can deal with problems such as overcharging; faulty goods; sub-standard workmanship; and reporting dishonest traders and scams. Consumer Direct advisers are ready to offer solutions for individual problems.

5.3 Consumer Direct can offer help and advice to every single consumer in Great Britain (regardless of age, gender, social background or ethnic group) who is buying or has bought goods or services. (Consumers in Northern Ireland can contact ConsumerLine for advice and information).

5.4 Consumer Direct can:

- Help sort out a problem or disagreement with a trader
- Help consumers complain to a trader
- Help consumers to make a complaint about a trader
- Inform consumers of their rights
- Provide pre-shopping advice before consumers buy goods or services
- Provide general advice on how to avoid unscrupulous traders or "cowboys"
- Explain consumer-related issues such as warranties, buying on credit, internet shopping, refunds and replacements
- Provide advice on avoiding trading scams and rip-offs (and allow consumers to report any scams)
- Direct consumers to a regulator or other organisation if it is better suited to assist
- Refer a case to a local Trading Standards Authority or similar agency if they are better suited to assist.

5.5 The advice and information provided is free. Telephone calls are charged for via an 0845 number, which costs no more than 4p per minute for BT customers (other networks may vary).

⁹ Consumer Direct 08454 040506 www.consumerdirect.gov.uk

5.6 Consumer Direct is already fully operational in Scotland, Wales, and most regions of England¹⁰. The service is due to complete roll-out to remaining English regions¹¹ in 2006.

5.7 At present, Consumer Direct staff has the necessary skills and expertise to deal with enquiries and problems across the full range of consumer markets, other than utility markets which it leaves to the sectoral bodies. It is envisaged that further specialist training and enhanced information databases would be put in place to help the staff deal with enquiries and complaints from utility consumers.

5.8 Under current arrangements, energywatch, Postwatch, Consumer Council for Water and the Air Transport Users' Council (ATUC) provide telephone enquiry and advice services to consumers through a variety of means. These include in-house national call centres, regional call centres, and out-sourced contractors. The National Consumer Council, the Financial Services Consumer Panel and the Ofcom Consumer Panel do not provide advice services to consumers.

5.9 In the proposed new model, Consumer Direct would provide a single point of contact, although the systems established would recognise that consumers may well turn to other organisations, such as Citizens Advice Bureau, for initial enquiries. Consumer Direct would provide information, advice, and help the consumer resolve simple complaints. They would refer consumers to Alternative Dispute Resolution bodies (ADRs) (or "ombudsmen") if a complaint needed to be investigated and resolved. More details of the proposals for ombudsman arrangements for the utility sectors are discussed in the next section.

5.10 At present, while they are declining in number, there are still significant call volumes to the individual sectoral consumer bodies. These bodies are able to provide specialist advice based on their knowledge of the companies operating in each sector. Consideration will need to be given to the extent that Consumer Direct will need to preserve that expertise as the consumer's first port of call. As with other aspects of the proposals, an intrinsic part of the proposed new model is to place greater emphasis and responsibility on the role of the individual service providers to deal with consumer enquiries and complaints quickly and effectively, as a means of reducing the necessity for consumers to be making calls to third party consumer organisations. At the same time, we need to ensure better signposting by suppliers and service providers to sources of consumer assistance and advice.

¹⁰ Consumer Direct already fully operational in East of England; East Midlands; London; South East; South West; Yorkshire and the Humber.

¹¹ Consumer Direct will complete the roll-out of services in 2006 to remaining English regions: West Midlands; North West; North East.

5.11 In order to reinforce this objective, it is worth considering whether additional incentives need to be put in place for service providers.

Q1 Do you agree that companies who provide services should have complete responsibility towards their customers, including the resolution of complaints? To what extent do you consider that companies currently fail to do this?

Q2 Do you consider that additional incentives need to be placed on suppliers in order to secure improved standards in handling consumer enquiries and complaints? If so, what form should these incentives take (licence obligations; statutory targets; etc)?

6 Ombudsman schemes

6.1 In financial services and electronic communications, there are Alternative Dispute Resolution bodies (ADRs, or “ombudsmen”) to handle complaints which a consumer has been unable to resolve with the supplier or service provider. The core role for an ADR service is to investigate and resolve, determine or make recommendations on those complaints which fall within its jurisdiction.

6.2 All public communications providers that have domestic or small business customers, are required to be a member of a dispute resolution body.

6.3 The first such ADR, Otelo, is run and funded by major electronic communications companies, and is approved by Ofcom and underpinned by legislation in the Communications Act 2003. Otelo determines complaints cases - their findings are binding on companies but not consumers - which are referred by consumers or service providers where there is failure to reach agreement on resolution of a complaint. Otelo is partly funded by subscription from the companies (currently set to recover 20% of budgeted costs) and partly by a charge on the relevant service provider for each complaints case referred for action (set to recover the remaining 80% of budgeted costs). Consequently, there is a very strong incentive for service providers to resolve complaints from customers efficiently. Otelo was the first established ombudsman for electronic communications, but other, similar, schemes may be set up by the industry subject to the approval of the regulator. (Ofcom has approved CISAS – the Communications and Internet Services Adjudication Scheme - as an alternative. CISAS has a significant membership among internet service providers). These electronic communications models provide a practical example of what can be achieved by an industry-funded ADR.

6.4 In financial services, the Financial Ombudsman Service operates a similar scheme. Like Otelo, it is funded partly by subscription from member companies, and partly by a charge on the relevant service provider for each complaints case referred for action.

6.5 Generally, ombudsman decisions on individual complaints are binding on the service provider and the consumer, only if the consumer accepts them. Consumers retain the option to reject the Ombudsman-recommended solution and adopt a different resolution route, perhaps through action in the courts. Sectoral consumer bodies do not have the

same statutory powers to determine outcomes for consumers, in part because they do not have the same degree of neutrality as an ADR body.

6.6 Spreading the availability of ombudsman schemes from electronic communications and financial services to electricity, gas, and postal services would be intended to produce the following benefits:

- (a) strong incentive for companies themselves to resolve complaints effectively and efficiently;
- (b) consumers have certainty of resolution of a complaint;
- (c) compensation and redress for consumers where this is warranted;
- (d) companies are given a direct stake in the process of resolving service complaints
- (e) the entire cost of the scheme is borne by the relevant companies, who gain control of the administrative costs of complaints resolution
- (f) the service is entirely free to consumers, and although companies are bound by the decisions of the ombudsman, consumers are not, and are free to pursue further action (usually through the courts) if they do not wish to accept a decision.

6.7 A utilities ombudsman could have a number of different structures, as described below.

(a) Separate ombudsmen for each sector

6.8 Separate ombudsmen for each individual regulated market could help maintain sectoral expertise. The proliferation of ombudsmen thus created would, however, lead to inefficiencies and lose the benefit of cross-sectoral benchmarking.

(b) A single ombudsman for all regulated sectors

6.9 This option would offer advantages of simplicity, efficiency, and cross-sectoral benchmarking. A single "imposed" ombudsman would suffer from some disadvantages, however. Value for money would be difficult to establish and control within a single organisation, and the advantages of industry-led arrangements (as in electronic communications) would be lost. Ombudsmen (and broadly similar arrangements) exist in financial services and electronic communications

at present, and there would be little advantage in consolidating these within one body because they are industry financed.

(c) Electronic communications model

6.10 The electronic communications model is potentially the most attractive because it provides a legal requirement for public communications providers to belong to an ombudsman scheme, but does not specify any particular scheme other than it must be approved by the regulator.

6.11 In this model, companies may choose to come together to provide one or another ombudsman scheme; gain regulatory approval for the scheme; and operate the scheme subject to regular reviews by the regulator. As discussed above, there are two ombudsman schemes in electronic communications. It is possible that either scheme might be given a wider scope to encompass additional sectors, such as energy or postal services.

6.12 The element of flexibility in the electronic communications approach permits control of costs by allowing other schemes to be set up. The requirement for approval and monitoring by the regulator also permits control over the standards set by the ombudsman scheme and guards against undue proliferation of schemes.

6.13 Co-ordination will be necessary to ensure that ombudsman schemes which cover more than one regulated sector will be acceptable to all the relevant regulators without having to undergo separate assessments.

Q3 Do you agree that it would be beneficial to extend complaint resolution through ombudsman schemes to electricity, gas, and postal services?

Q4 Do you agree that the electronic communications model is to be preferred, with service providers being obliged to belong to an ombudsman scheme, but leaving it to the companies to come up with their own scheme (or join an existing scheme) subject to regulatory approval?

7 Consumer advocacy: “Consumer Voice”

7.1 Sections 4 and 5 above focused on the consumer information provision and resolution of complaints. Consumer bodies do much more than this, of course. A key objective in the proposed new model is to provide a new framework within which the capability of a consumer advocacy body can be significantly enhanced by releasing resources currently deployed in handling complaints (which are the proper responsibility of industry or industry-led and financed ombudsman services).

7.2 Other efficiencies can be realised by joining up the separate sectoral and national consumer bodies. These are not just value for money efficiencies, although that is important for consumers and taxpayers¹². There are operational efficiencies to be realised in the interest of providing better service for consumers and representing their interests to a new, higher, level.

7.3 Key recommendations from the DTI/HM Treasury report focused on the need for sectoral bodies to take joint action; to conduct joint research; and to join together to represent the interests of consumers to Government and the EU, for example. Other recommendations pointed to the wider benefits of joint working and the sharing of staff and other resources.

7.4 The sectoral consumer bodies responded swiftly and positively to these recommendations. The Consumer Action Network (CAN) was established by them in April 2004 to promote joined-up work between all members of the Network. Members of CAN include General Consumer Council for Northern Ireland; Postwatch; energywatch; Citizens Advice Bureaux; Consumer Council for Water; National Consumer Council; Financial Ombudsman Service; Rail Passengers Council; Ofcom Consumer Panel, ICSTIS and Trading Standards Institute. Certainly, the CAN has held seminars on issues of common interest (including this consultation), and has plans to make the most of “joined-up” approaches to consumer representation. But CAN members have made it absolutely clear that the existence of separate organisations, with separate lines of accountability for budget and performance to a range of Government Departments and separate statutory duties under different pieces of legislation means that the opportunities for closer work and co-operation and sharing of resources cannot be attained without addressing the issue of their structural separation.

¹² See paragraph 7.38 below for a summary of current funding methods.

7.5 Consequently, it is apparent that there is a strong case for structural reform, and for a single body with the authority and competence to take the broadest possible view of the consumer interest, and which has the statutory right to represent the entire consumer interest to all parties.

7.6 “Consumer Voice” is a working title. The final name for this body would benefit from careful consideration, so that its brand can win consumer assent and trust. Suggestions on this will be gratefully received.

7.7 It is proposed that new “Consumer Voice” would bring together sectoral consumer representation roles with that of the National Consumer Council to create a single, independent, consumer champion.

7.8 The main functions of Consumer Voice would be to:

- promote the interests of consumers across all sectors (e.g. in discussions (though not individual disputes) with providers of goods and services, in formulation of public policy etc);
- ensure that the interests of disadvantaged or vulnerable consumers are promoted, and taken account of by policymakers and business;
- undertake cross-sectoral research proactively to identify key consumer issues;
- provide expertise on consumer policy, and its application in particular sectors and markets, to Government, regulators, and other decision-makers;
- take over transferred sectoral duties, although the opportunity should be taken to rationalise these responsibilities where necessary.

7.9 The individual sectoral consumer bodies contain a wealth of expertise and knowledge among their members and staff. We believe that that expertise should not be lost or diluted so that Consumer Voice can still respond to the particular circumstances of each sector and of individual companies within each sector. For example, it will need to represent the interests of consumers during price reviews.

7.10 It is proposed that the new Consumer Voice would be the consumer advocate, advising the 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 and – increasingly – in the EU fora. Complaints data flowing back to Consumer Voice from Consumer Direct and the ombudsman will be a key input to the advocacy work. Consumer Direct and sectoral consumer bodies already co-operate together on operational matters.

Strategic options for structure

7.11 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 Ofcom Consumer Panel (for example) are also statutory bodies with their own members and chair. But they do depend on their respective sectoral regulators for accommodation, support staff and budget.

7.12 There are three strategic options for bringing the consumer bodies together, and these are discussed in turn below. The key functions of the body under each option would be as outlined at paragraph 5.8 above. Each option would have a common representative structure, with an office in each of Scotland, England, and Wales. In addition, it is envisaged that an office in Northern Ireland would be necessary to deliver the UK-wide remit of Postwatch and the Ofcom Consumer Panel as constituent bodies of Consumer Voice. 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.

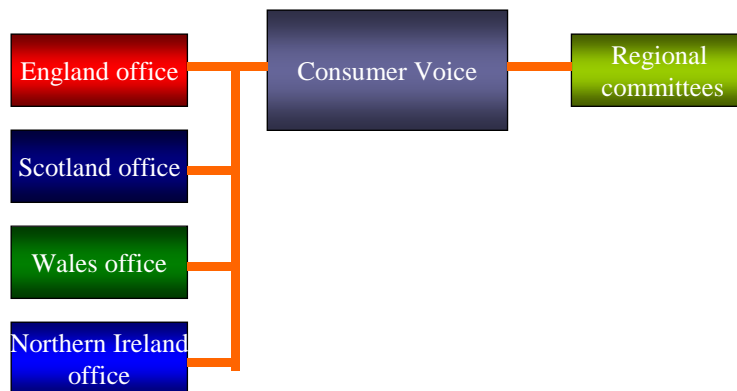
Consumer Voice Structure: Option 1

7.13 In this model, consumer bodies would be consolidated into one single organisation. Subject to decisions on which bodies to include in the new organisation (see paragraph 7.19 below), the clear objective is to ensure that none of the bodies is excluded, because that would diminish the benefit to consumers of having a single, strong, consumer advocate.

7.14 The organisation would be led by a Council, comprising a Chair and members, all appointed by the Secretary of State for Trade and Industry, and involving Scottish and Welsh Ministers as appropriate.

7.15 The Council would be supported by an executive office, led by a Chief Executive. If the new body wished to establish regional committees, it is possible that these committees could arrange for secretariat support for meetings through the existing Government Office network.

Consumer Voice: structure option 1



Advantages

- clear delivery of objective to strengthen and streamline consumer representation
- authority for the new body to speak for all consumers
- delivery of greater cohesion and coherence for consumer advocacy
- opportunity to take a cross-sectoral view of consumer detriment and consumer desires and ambitions
- opportunity to identify and spread best practice from one market to others

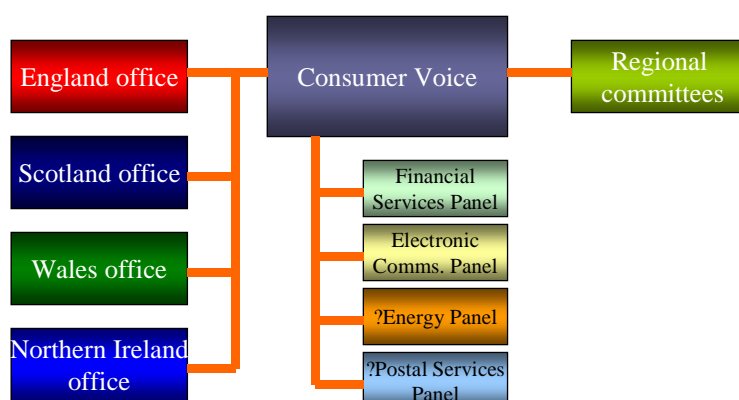
Disadvantages

- regulators who are accustomed to having an “in-house” consumer panel to provide advice would need to establish a new relationship with the new body
- possible loss or dilution of sectoral expertise
- risk that the new body may downgrade the importance attached to some sectors or not reflect each sector’s different circumstances.

Consumer Voice Structure: Option 2

7.16 This is a variation of Option 1, with a single, unified body with the same core structure. Option 2, however, would enable Consumer Voice to include specialist panels for each sector as necessary, to provide specific expertise to the organisation.

Consumer Voice: structure option 2



Advantages

- all the advantages of option 1, but
- additional specifically sectoral expertise can be brought to bear wherever this is considered necessary.

Disadvantages

- regulators would still need to establish a new relationship with the new body
- this model could have some of the disadvantages of option 1.

Consumer Voice Structure: Option 3

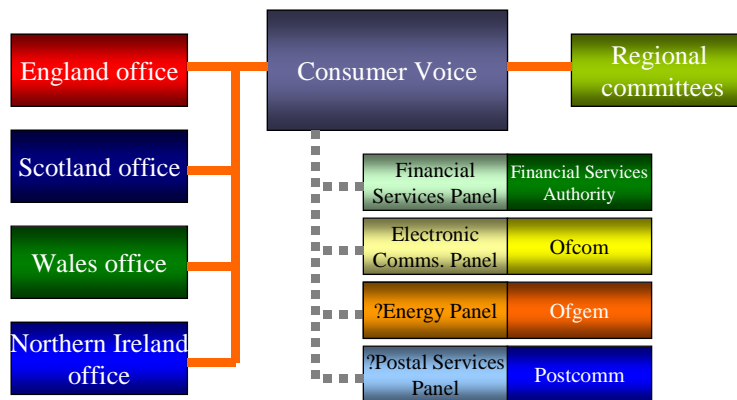
7.17 The consumer panels could generally be characterised as having a different function from the statutory independent consumer bodies: primarily they provide advice to the relevant sectoral regulator on the consumer interest. They do not provide advice to consumers or engage

in assisting the resolution of complaints, for example. Statutory independent consumer bodies conduct a full range of services aimed directly at the consumer.

7.18 Option 3 could provide a more flexible structure than Option 1. It would:

- consolidate existing consumer bodies (excluding existing consumer panels) and statutory responsibility for representing the interests of all consumers into one new body (“Consumer Voice”);
- make specific statutory provision to permit (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 the relevant sector;
- provide for appointments to consumer panels to be made by the relevant Minister in consultation with the Chair of the regulator, or by the regulator in consultation with the relevant Minister;
- ensure consistency across markets and co-ordination of consumer advocacy. Consumer Voice would be represented by at least one Council member on any consumer panels created by sectoral regulators;
- Consumer Voice could also be represented on other specialist consumer bodies, such as those established in health and education.

Consumer Voice: structure option 3



Advantages

- this model could have all of the advantages of Option 1
- it would facilitate the adoption (or retention) of specialist consumer panels by sectoral regulators where they wished to do so
- it would enhance existing consumer advocacy in those sectors where there is no consumer body with a direct consumer relationship
- it would retain or create expertise in individual sectors where necessary
- it would underpin ongoing co-ordination through cross-appointments.

Disadvantages

- need for clarity about relative roles for Consumer Voice and a “regulator’s consumer panel”:
 - the panel would exist (broadly as for the current consumer panels) principally to advise the relevant regulators about the consumer interest
 - Consumer Voice could provide executive support for all panels for research, analysis, and outreach activities. Regulators would need to provide funding

and resource for consumer panel secretariat within the regulator's own administrative structure. As now, panels would be able to draw on additional specialist resource provided by regulators.

- Consumer Voice would be obliged to co-ordinate its outreach activities and education in consultation with the panels, regulators and the CTSA.
- need to be clear that the existence of a regulator's consumer panel would not prevent Consumer Voice from being active on behalf of consumer in the relevant market.

Which consumer bodies should be included in the new organisation?

7.19 It is proposed that the new Consumer Voice should incorporate the National Consumer Council and parts of some or all of the following existing consumer organisations. These are:

- energywatch
- Postwatch
- The Financial Services Consumer Panel
- The Ofcom Consumer Panel

We propose to undertake a further public consultation in 2008, to assess the views of water stakeholders at that time, and to consider whether the Consumer Council for Water should be included at a future date (see paragraph 2.18 above).

7.20 In order to create a single consumer voice that can take account of the key issues across sectors, it is important that we take a coherent and comprehensive approach. Although there will be detailed points in each of the sectors about precise duties of the existing consumer bodies and legislative changes needed to shift responsibilities to the new Consumer Voice, there will be strong benefits in including all sectors in the new body. Conversely, leaving out any one of the sectoral bodies would diminish the benefits for the consumer of consolidation.

Geographical scope

7.21 The existing sectoral bodies have different geographical scope; for example

- Postwatch – covers whole of the United Kingdom
- Energywatch – Great Britain, but not Northern Ireland
- NCC – United Kingdom: includes role of Scottish Consumer Council and Welsh Consumer Council in covering devolved issues;

- Financial Services Consumer Panel – covers whole of the United Kingdom
- Ofcom Consumer Panel – covers whole of the United Kingdom.

7.22 The greatest overlap appears to be at the Great Britain level, so it might be considered appropriate for Consumer Voice to also have a Great Britain scope. However, this would raise particular problems that would need resolving, including what to do with Postwatch functions in Northern Ireland. Consumer policy is a reserved matter, but many of the issues and policies of concern to consumers are devolved, so that Consumer Voice will need to operate fully and meaningfully in a devolved context even if it is established on a wider geographical basis.

7.23 The alternative approach would be to set up a United Kingdom wide body, but with restricted scope in some sectors. This would be the preferred option particularly for postal and financial services, which currently have a United Kingdom ambit. It would be most sensible to establish a United Kingdom-wide body, which would recognise some territorial limitations for parts of its work. This would not be significantly different from the position of Government Departments dealing with the devolved administrations. Robust ties could be established with those bodies responsible for consumer functions in discrete parts of the United Kingdom.

Regional representation

7.24 The current spread of 32 national and regional offices across the seven 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 budget.

7.25 A regional dimension to consumer representation may be said to assist with delivery of consumer awareness and education programmes; regional communications functions; maintaining relationships with the regional media; and links with the Scottish Executive and Welsh Assembly.

7.26 But in practice, the network of regional offices can never be so large or well-staffed to reach into all parts of the region, and 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.

7.27 In the past, arguments have been put forward for the retention of a national network of regional offices. Over the last few years, however,

those sectoral consumer bodies that do have regional offices¹³ have all embarked on or 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.

7.28 These moves, together with the proposal to handle complaints in new ombudsman schemes, removes much of the justification for retention of regional office networks. Taking the total number of offices in existence across the different consumer bodies, it is apparent that substantial rationalisation is needed. Despite some clear opportunities having arisen for sectoral bodies to share accommodation (and other resources), they have decided not to do so.

7.29 On balance, it makes sense to retain three offices for the new organisation in Scotland, England, and Wales, with the possibility of an office in Northern Ireland, with no preference at this time for which of these locations is chosen for the head office. We would, however, wish to consider closely the recommendations made by the Lyons Review¹⁴ when making this decision.

7.30 It is necessary to consider what - if any - additional regional representation might be necessary. A distinction should be made between regional representation, to harness local expertise on specific local issues, and the need for regional offices. There is an argument that much of the expertise in the regions resides with the permanent regional office staff. In water, expertise is built up by close working relationships between the companies and the regional offices of the Consumer Council, for example by means of regular audits of the companies' own complaints handling procedures. It is worthwhile considering whether the information on which to build expertise can only be held at the local level, or whether there would be strategic advantages in consolidating regional information centrally.

Consumer education roles

7.31 Consumer Voice may take on consumer education functions, which are currently carried out in a piecemeal way. This could be undertaken in conjunction with the Office of Fair Trading, which has a formal responsibility for consumer education.

¹³ Energywatch, Postwatch, Consumer Council for Water

¹⁴ The Chancellor and Deputy Prime Minister asked Sir Michael Lyons, Director of the Institute of Local Government Studies at the University of Birmingham, to conduct an independent study into the scope for relocating a substantial number of public sector activities from London and the South East of England to other parts of the United Kingdom. On 15 March 2004, Sir Michael published his report, 'Well Placed to Deliver? – Shaping the Pattern of Government Service'.

Cost

7.32 The current total cost of the five consumer bodies under consideration - £29.9m - can be reduced in two ways. First, the cost of complaints handling can be taken out of the consumer bodies and placed in ombudsman schemes funded directly by industry. For Postwatch and energywatch alone, this would save £7.2m (gross) on 2003/4 figures, but some additional funding would need to be made available by companies for ombudsman schemes. As a general indication, the electronic communications ombudsman, Otelo, had administrative expenses totalling £1.4m for 2005.¹⁵ Additional costs for Consumer Direct would be envisaged for initial set up, particularly recruitment, systems, and training.

7.33 Second, there is a real need to rationalise the regional office presence. The total cost of £10.2m (which includes the regional office complaints handling cost mentioned above) should be reduced significantly if only three or four offices are retained.

7.34 Overall, we should expect to save from annual budgets at least:

- £7.2m on complaint handling¹⁶;
- £3.7m from reduction in regional offices
- £7.1m on consolidation of offices and other resources¹⁷

providing indicative total ongoing annual savings in the order of £18.0m¹⁸

7.35 It should be noted that this would not represent a saving to Government, as sectoral bodies are funded by the individual industries that, in turn, recover their costs from consumers.

7.36 The cost to implement the changes to the current bodies to form Consumer Voice is estimated as £7.1m to £19.4m (current and capital), these estimates being made on the same basis as those for the CTSA in the Hampton report. Costs are helped considerably by two of the bodies – the Financial Services Consumer Panel and the Ofcom Consumer Panel - having no direct staff or accommodation separate from the associated regulators.

7.37 Costs can be further reduced by:

¹⁵ Otelo Annual Report 2005.

¹⁶ The costs of energywatch plus Postwatch complaint handling (DTI/Treasury Report, July 2004)

¹⁷ The cost of Postwatch head office, including research, policy, network and overheads etc.

¹⁸ These are gross savings: some additional costs would accrue from operation of ombudsman schemes.

- locating the head office outside central London;
- ensuring that the only additional offices are those in Scotland, Wales, and possibly Northern Ireland, and that the existing Scottish and Welsh Consumer Councils (as part of the NCC) are brought within the new structure
- ensuring that the best of the existing ICT systems is utilised.

Funding

7.38 At present, a number of bodies are funded directly or indirectly by companies in the relevant sector, while others are funded by Government through grant in aid (see details in Annex A). Separating out complaints handling and transferring dispute resolution to an ombudsman creates the scope for a new funding model, similar to that used for the Ofcom consumer panel and Otelo ombudsman. The ombudsman (dispute resolution service) is funded by companies, partly by subscription, and partly on a per complaint basis. This gives strong incentives for firms to settle customer complaints themselves, avoiding a costly settlement process. Once the costs of complaints handling are separated out, the residual functions carried out by Consumer Voice could be funded partly through grant-in-aid, and partly by analogy with the current system of funding sectoral consumer bodies from licence fees charged to utility companies, although work will be needed to inform how the bill should be shared between sectors.

7.39 At present, NCC is publicly funded. But industry sectors contributing to the funding would benefit in two ways. First, the proportion of their current funding of sectoral consumer bodies that is relevant to complaint handling would be brought within their own control under the ombudsman proposal. Second, the savings proposed from the new arrangements would provide a further saving on their existing contributions.

Staffing and accommodation

7.40 An assessment of the staffing requirement for the new body will be needed in the light of decisions on structure. Office requirements will need to take account of Gershon principles, and it will be necessary to have detailed information across all sectors of existing liabilities on leases and other contracts. A number of consumer bodies have individual contracted-out call centre functions, for example. Further work is being undertaken on the costs to change in parallel with this consultation.

Transfer of sectoral functions to Consumer Voice

7.41 At present, the relevant sectoral legislation that established each sectoral consumer body ascribes a range of specific functions to the body and interactions between the body, the regulator, and Government. This includes, for example, requirements for:

- (a) a memorandum of understanding between the body and the regulator on exchange of information;
- (b) Government to consult the body before issuing guidance to the regulator;
- (c) the regulator to notify the body of proposals to change licensable activities or modify licence conditions;
- (d) the body to provide information to consumers, and to publish advice;
- (e) the body to be consulted by the regulator before providing advice to the Government on the service standards to be established or changed

7.42 The new model provides an opportunity to consider which of the current duties and interactions need to be maintained, and which – if any – could and should be dispensed with.

Appointments and accountability

7.43 It is important to consider the process of appointing senior members of Consumer Voice, and also the accountability of the consumer body. There are a number of models among the existing sectoral bodies from which we would plan to draw out best practice.

7.44 At present, we would envisage that:

- the Chair of Consumer Voice could be appointed by the Secretary of State for Trade and Industry following consultation with other interested Departments and the devolved administrations
- if there is agreement that offices should be established in Scotland and Wales, it would be appropriate to establish committees for Scotland and for Wales. The Chair of each of these committees could be appointed by Ministers (in consultation with colleagues) as appropriate.

- committee members could be appointed by the relevant Minister in consultation with the Chair
- the chair of the Scottish Consumer Voice committee and the Chair of the Welsh Consumer Voice Committee could be members of the national committee
- Chairs and members would be part-time
- the Chief Executive of Consumer Voice would be the Accounting Officer, subject to approval by HM Treasury
- budgets would be decided through discussions between Consumer Voice, the Department of Trade and Industry, and Scotland and Wales

7.45 Appointments to Consumer Voice would be made in accordance with the approved processes set out by the Office of the Commissioner for Public Appointments.

7.46 Consumer Voice would be obliged to publish and consult on a forward work plan, and to report to Parliament on activities and accounts each year.

Q5 Which of the strategic models do you prefer, and why?

Q6 Do you agree that the benefits to consumers will be diminished by the exclusion of any of the bodies listed?

Q7 Do you agree that Consumer Voice should have a UK-wide role, but with restricted scope in some areas?

Q8 Do you agree that offices should be restricted to one in each of Scotland, England, and Wales? Should Consumer Voice have the powers to appoint regional committees?

Q9 Do you agree that funding should be made partly from Government and partly from those industries that contribute to the funding of sectoral consumer bodies at present?

Q10 Which duties and obligations on the sectoral consumer bodies should be transferred to Consumer Voice? Please give reasons.

Q11 Which of the interactions between the consumer body, regulator, and Government should be preserved and transferred to Consumer Voice? Please give reasons.

8 Specific sectoral issues

Postal services

8.1 Postwatch has a statutory role to represent the interests of consumers to the sectoral regulator, the Secretary of State, the Competition Commission and licence holders. It plays a specific role in setting quality standards for postal services. Unlike other sectors, for the majority of mail covered by the universal service there is no contract between the person posting a letter in a post box and Royal Mail. The absence of proof of posting and a contract would need to be factored into any ombudsman scheme. At present, a compensation scheme has been put in place, and Royal Mail has the ability to make Schemes, as set out in the Postal Services Act, to limit its liability.

Ofcom Consumer Panel

8.2 The Ofcom Consumer Panel and the Financial Services Consumer Panel differ from the other bodies being considered as part of Consumer Voice in that they are currently part of sectoral regulators. This may raise particular questions about whether it would be appropriate to include either or both of them in Consumer Voice, and if so, how duties and responsibilities of the panels would be transferred into the new body. The Ofcom Panel has a number of features that distinguish it from other bodies, which may reduce the scope for benefits from including it in Consumer Voice. The Ofcom Panel does not handle consumer complaints, and it does not have a regional office network or staff of its own. It has been established since February 2004, and is structurally closely integrated into Ofcom, whilst retaining full independence of operation (which it derives directly from statute).

8.3 As with other sectoral consumer bodies, the Ofcom Consumer Panel has important statutory obligations in respect of participation in the wider regulatory regime for the relevant sector, including the representation of consumer interests to the sectoral regulator.

8.4 Care will be needed to ensure that the duties envisaged under the legislation for each regime can be carried forward to the new model, in order to preserve the integrity of the regulatory system. These issues, taken together, may point towards option 3 outlined in paragraph 7.17 above.

Energy

8.5 The new body will need to address the specific linkages with key Government policies, particularly in respect of fuel poverty, energy efficiency, and the promotion of the competitive market.

Financial Services Consumer Panel

8.6 In Financial Services, there is already an established ombudsman for the sector, and it is not envisaged that that would need to change. Also, the Financial Services Authority has the remit to promote public understanding of the financial system; again, it is not envisaged that this would need to change. Overall, we do not envisage that setting up Consumer Voice would alter the powers currently held by the Financial Services Consumer Panel, although the way in which these powers were exercised could change within the new structure. Option 3 of the alternative models could allow the Financial Services Consumer Panel to fall under the wing of Consumer Voice, but continue to be co-located with the Financial Services Authority, funded as at present, and largely carry over existing accountability arrangements, including in relation to appointments

9 Legislation and timetable

9.1 New primary legislation will be required to put these proposals into effect.

9.2 If Parliamentary time permits, and with the approval of Parliament for a Bill, the key dates might be as summarised below:

19 April 2006:	End of consultation
Autumn 2006	Bill placed before Parliament
July 2007	Royal Assent
November 2007	Consumer Voice established as a shadow body
December 2007 - January 2009	Transfer of responsibilities to Consumer Voice
January 2008	Further public consultation by Department of Trade and Industry and Department of Environment, Food and Rural Affairs on whether to merge the Consumer Council for Water into Consumer Voice.

9.3 A summary of responses to this consultation will be published within three months of the closing date.

Annex A Consumer bodies

	Budget 2003/4 (£m)	Staff numbers	Number of offices (inc.HQ)
National Consumer Council¹⁹	5.44	77	3
Energywatch	13.0	303	8
Postwatch	10.2	113	9
Financial Services Consumer Panel	0.6	6	1
Ofcom Consumer Panel	0.655	4	1
Totals	29.985	503	22

All figures relate to 2003/4 baseline.

¹⁹ Includes National Consumer Council; Scottish Consumer Council; and Welsh Consumer Council

Annex B Code of Practice on Consultations

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The complete code is available on the Cabinet Office's web site, address <http://www.cabinetoffice.gov.uk/regulation/consultation/index.asp>

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to

Nick van Benschoten,
DTI Consultation Co-ordinator
1 Victoria Street
London
SW1H 0ET

or telephone him on 020 7215 6206

or email to: nick.vanbenschoten@dti.gsi.gov.uk

Annex C Organisations to be consulted

The National Consumer Council
Scottish Consumer Council
Welsh Consumer Council
Energywatch
Postwatch
The Consumer Council for Water
The Financial Services Consumer Panel
The Ofcom Consumer Panel
The Air Transport Users' Council
The Rail Passengers' Council
The General Consumer Council for Northern Ireland
Consumer Direct
Citizens Advice
Citizens Advice Scotland
Northern Ireland Association of Citizens Advice Bureaux

The Competition Commission
The Competition Appeals Tribunal
The Office of Fair Trading
The Office of Gas and Electricity Markets
The Office of Water Services
The Postal Services Commission
The Office of Rail Regulation
The Civil Aviation Authority
The Office of Communications
The Financial Services Authority

The British and Irish Ombudsman Association
The Office of the Telecommunications Ombudsman
Communications and Internet Services Adjudication Scheme
The Financial Ombudsman Service

The Energy Retail Association
Water UK

Royal Mail
Anglian Water Services Ltd
Bournemouth & West Hampshire Water plc

Bristol Water plc
Cambridge Water plc
Dee Valley Water plc
Dwr Cymru Welsh Water
Essex & Suffolk Water
Folkestone & Dover Water Services Ltd
Mid Kent Water Ltd
Northern Ireland Water Service
Northumbrian Water Ltd
Portsmouth Water Ltd
Scottish Water
Severn Trent plc
South East Water Ltd
South Staffordshire Water plc
South West Water Ltd
Southern Water
Sutton and East Surrey Water plc
Tendring Hundred Water Services Ltd
Thames Water Utilities Ltd
Three Valleys Water plc
United Utilities Water plc
Wessex Water Services Ltd
Yorkshire Water Services Ltd
British Gas
Powergen
Scottish Power
Scottish & Southern Energy
EDF Energy
NPower

Confederation of British Industry
Federation of Small Businesses
British Bankers Association
Building Societies Association
Association of British Insurers
APACS
British Retail Consortium
Local Government Association
LACORS
Trading Standards Institute
Which?
Institute of Consumer Affairs
National Consumer Federation

Annex D Partial Regulatory Impact Assessment

PROPOSALS TO STRENGTHEN AND STREAMLINE CONSUMER ADVOCACY

Purpose and Intended Effect of the Measure

1. This partial Regulatory Impact Assessment considers the options and the associated costs and benefits for strengthening and streamlining consumer advocacy, based on the recommendations made in the report by the Department of Trade and Industry (DTI) and HM Treasury, "Consumer Representation in Regulated Industries"²⁰ and the DTI consultation document²¹ on the draft Consumer Strategy. The recommendations also take into account the implications of the recent Hampton Review, "Reducing administrative burdens: effective inspection and enforcement"²².

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 the markets;
 - effectiveness in resolving (rather than just handling) consumer problems; and
 - value for money for taxpayers and consumers.

²⁰ Copies of this report are available at www.dti.gov.uk/ccp/topics2/economic_regulation.htm.

²¹ "Extending Competitive Markets: Empowered Consumers, Successful Business" (published 14 July 2004; consultation ended 31 October 2004). Available through <http://www.dti.gov.uk/consultations/consultation-1231.html>.

²² 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 championing open, competitive markets wherever possible, to deliver that 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 – including 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 sectors²³ 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 providing the high quality information and advice needed for consumers 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

²³ The regulated sectors are taken throughout this paper to mean those that have a sector specific regulator i.e. gas, electricity, postal services, water, air transport, electronic communications and financial services.

(Postcomm) has a primary duty to ensure the provision of a universal postal service. Subject to this primary duty, Postcomm is required to promote effective competition where this is beneficial to consumers. The Financial Services Authority (FSA) has regulatory objectives to maintain confidence in the financial system; to promote public understanding of the financial system; to secure the appropriate degree of protection for consumers; and reduce financial crime.

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.

The Proposed Model of Consumer Advocacy

13. 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 ombudsman scheme(s)** (already operating in electronic communications and financial services) to resolve complaints where service providers have not been able to do so; and
- **New “Consumer Voice”**, which would bring together the National Consumer Council and sectoral consumer bodies into a single body to represent the interests of consumers in all markets.

14. 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”²⁴, and consulted on in the DTI draft Consumer Strategy²⁵. 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 single Consumer Voice body would be an important step in carrying through the report’s recommendations and delivering on the Consumer Strategy.

15. Assessment of the current provision for consumer representation was aided by a Benchmarking Survey of energywatch and Postwatch which was undertaken for DTI, HM Treasury, and the National Audit

²⁴ Copies of this report are available at www.dti.gov.uk/ccp/topics2/economic_regulation.htm.

²⁵ “Extending Competitive Markets: Empowered Consumers, Successful Business”. Consultation closed 31 October 2004.

Office by PricewaterhouseCoopers²⁶. The National Audit Office also published a separate, independent, report on energywatch and Postwatch²⁷.

Rationale for Government Intervention

16. A study undertaken for the DTI in 2000²⁸ 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 past year. The survey found that while 35% 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.
17. 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 cause stress to the consumer, especially where they take time to be resolved.
18. A survey prepared for the OFT in 2004²⁹ 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.
19. 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

20. 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

²⁶ Available at www.dti.gov.uk/ccp/topics2/economic_regulation.htm.

²⁷ "Energywatch and Postwatch: Helping and protecting consumers", October 2004. Available at http://www.nao.org.uk/publications/nao_reports/03-04/03041076.pdf.

²⁸ The Consumer Knowledge Survey, 2000, available at <http://www.dti.gov.uk/ccp/topics1/pdf1/knowledge.pdf>.

²⁹ Survey prepared for the OFT by Synovate, May 2004, "Competition Act and Consumer Rights", available at <http://www.offt.gov.uk/NR/rdonlyres/9FB811E0-666E-42D3-BD41-1FCCEDCF22B2/0/oft736intro.pdf>.

under a significant burden of complaints which they can only seek to resolve through persuasion; they do not have powers to enforce resolution and cannot provide redress or compensation for consumers who have encountered problems. That is the role of an ombudsman, and it is the creation of new, separate, ombudsman services that form a key part of the proposals.

21. Second, almost every household in the country is a consumer of all or most of the key services: electricity, gas, and postal services, for example. 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.
22. Third, while companies increasingly offer a variety of regulated and unregulated³⁰ 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, but 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.
23. In representing consumers, too, the fragmented nature of consumer representation in the UK means that there is not a single, coherent, voice for the consumer which can analyse relative levels of consumer detriment and thereby reflect priorities across the different markets, or which 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. But apart from specific sectoral fora, the UK currently needs to field several representatives from different consumer organisations in order to cover issues thoroughly.

³⁰ "Unregulated" in this context means that the services are not regulated by a specific sectoral regulator.

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; 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. This partial Regulatory Impact Assessment accompanies a further public consultation document which sets out the possible plans and timetable, and invites views by **19 April 2006**.
27. 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 within a single body ("Consumer Voice") and create an ombudsman scheme(s) for the regulated sectors.

28. Under option 1, consumer representation is made up of three elements:
 - **Consumer Direct** as a single point of contact for consumers in all sectors;
 - a new consumer advocacy body in the form of **Consumer Voice** to undertake research, advocacy, and to have a consumer education role (alongside the OFT) and to represent the interests of consumers; and

- a **new ombudsman scheme(s)** for consumers in the regulated markets included within the proposals³¹ with the power to resolve every complaint. Complaints would be transferred to the ombudsman from Consumer Direct for resolution if needed.

Consumer Direct

29. 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 and supported by the Department of Trade and Industry – which is designed to deal with enquiries and simple complaints. The service is currently being rolled out across the country, with full coverage anticipated in 2006.

New Consumer Advocacy body – “Consumer Voice”

30. The new “Consumer Voice” would bring together sectoral consumer representation roles with that of the National Consumer Council to create a single, independent, consumer champion.
31. 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 formulation of public policy both in the UK and in Europe. Complaints data flowing back to Consumer Voice from Consumer Direct and the ombudsman schemes would be a key input to the advocacy work.
32. 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.
33. It is envisaged that Consumer Voice would take over specific duties currently attributed to sectoral consumer bodies, although the opportunity should be taken to rationalise these responsibilities where necessary. Sectoral duties that Consumer Voice would need to take on would include input into price reviews or other proposals

³¹ Postal services, gas and electricity (ombudsman schemes already exist in financial services and electronic communications).

which would have a major impact on consumers. The arrangements to establish Consumer Voice would take account of the need to retain sectoral expertise.

34. Under option 1, the new Consumer Voice would incorporate the following existing consumer organisations^{32, 33}:
- the National Consumer Council (NCC);
 - energywatch;
 - Postwatch;
 - the Financial Services Consumer Panel; and
 - the Ofcom Consumer Panel.
35. The geographical scope of the new consumer body is yet to be decided. The existing sectoral bodies have different geographical reach. We propose that the new body has a UK-wide remit, but with certain territorial limitations. (The proposed geographical scope of the new body is discussed in more detail in the accompanying consultation document.)

New ombudsman scheme(s)

36. 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 ombudsman schemes for resolution. All companies in each of the sectors included within the proposals³⁴ would need to belong to an ombudsman scheme. Ombudsman schemes already operate in the electronic communications and financial services sectors, and provide a real incentive on companies to deal effectively with consumer complaints, because onward reference to the ombudsman is costly to the company for every single complaint referred.
37. The Ombudsman would have powers to resolve completely any complaints referred: decisions are binding on companies (but not consumers); specific redress and compensation can be awarded

³² The government has recently carried out a fundamental review of rail regulation, which has 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.

³³ 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 important new objectives which 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 propose to undertake a further public consultation in 2008, to assess the views of water stakeholders at that time, and to consider 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.

³⁴ Gas, electricity, postal services, financial services and electronic communications.

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.

38. The ombudsman scheme could have a number of different structures:
- **A separate ombudsman for each sector:** distinct "imposed" ombudsman schemes for each individual regulated market could help maintain sectoral expertise. However, the proliferation of ombudsman schemes thus created could not take advantage of economies of scope or scale and would lose the benefit of cross-sectoral benchmarking.
 - **A single ombudsman for all regulated sectors:** this option would offer the advantages of simplicity, efficiency, and cross-sectoral benchmarking. However, a single "imposed" ombudsman would suffer from some disadvantages – competition between different ombudsmen to obtain members might be preferred to allow comparisons to be made between the levels of efficiency of the different ombudsman schemes and to help keep membership costs low.
 - **The Electronic Communications model:** this model is potentially the most attractive because it provides a legal requirement for public communications providers to belong to an ombudsman scheme, but does not specify any particular scheme, other than it must be approved by the regulator. Companies may choose to come together to provide one or another ombudsman scheme; gain regulatory approval for the scheme; and operate the scheme subject to regular reviews by the regulator. There are currently two ombudsman schemes in electronic communications. It is possible that either scheme might be given a wider scope to encompass additional sectors, such as energy.
39. The element of flexibility in the electronic communications approach allows competing schemes to be set up, and therefore to ensure membership fees remain at competitive levels. The requirement for approval and monitoring by the regulator permits control over the standards of the ombudsman schemes to ensure that while membership fees are kept low through competition, standards are kept at approved levels. Regulator approval also guards against undue proliferation of schemes.

40. Co-ordination would be necessary to ensure that ombudsman schemes which cover more than one regulated sector will be acceptable to all the relevant regulators without having to undergo separate assessments.

Option 2: Bring together consumer representation within a single body ("Consumer Voice") incorporating expert panels, and create an ombudsman scheme(s) for the regulated sectors.

41. 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 complaints; it would consolidate the existing consumer bodies to form a single, more effective consumer advocacy body; and it would create ombudsman scheme(s) for the regulated sectors included within the proposals. However, compared to option 1, this option allows for Consumer Voice to maintain expert panels for the regulated sectors, in order to provide specialist, expert input and advice as required.

Option 3: Bring together consumer representation within a single body ("Consumer Voice") excluding the existing consumer panels, and create an ombudsman scheme(s) for the regulated sectors.

42. This option would be as option 1 – the consolidation of the consumer bodies into a single organisation and the creation of ombudsman 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. They do not provide advice to consumers or engage in assisting the resolution of complaints, for example.
43. Where regulators do not currently have an integrated consumer panel, this option would make specific statutory provision to permit (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 the relevant sector.
44. 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.

45. 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 20 – 23 above.

Option 5: Bring together consumer representation within a single body, but do not establish ombudsman schemes.

46. 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.

47. 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.

48. The existing ombudsman 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 ombudsman schemes, but there would be no regulatory obligation to do so.

Funding

49. For all options, Consumer Direct would continue to be funded by Government, as it is currently. The costs of the new consumer advocacy body for options 1, 2, 3 and 5 can be met partly through grant-in-aid (Government funding) and partly from an analogy with the current system of funding sectoral consumer bodies from licence fees collected from regulated companies. For options 1, 2 and 3, the ombudsman scheme(s) could be funded by companies partly by subscription, and partly on a per complaint basis, although this would have to be decided and agreed between the members of each

scheme. (Funding is discussed in more detail in the accompanying consultation document.)

Business Sectors and Groups Affected

50. The business sectors covered by the proposals are the gas and electricity industries, postal services, financial services and electronic communications. It would 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 ombudsman scheme(s) which companies themselves will need to decide and agree upon).
51. The proposed system would also affect all consumers within these sectors. Consumers in sectors which currently have a lower effective level of consumer representation will receive greatest benefit from the proposed changes as the level of consumer representation is brought up to a consistent level across the sectors affected. Consumer representation should not diminish for consumers in any sector.

Benefits

52. The benefits given below are **only indicative** at this stage. Where it has been possible to monetise the benefits, the assumptions behind these figures have been given. We intend to undertake more detailed research in order to produce more robust benefit figures for each of the options, which may therefore have an impact on our preferred option. **We would welcome views, especially those supported by quantifiable evidence, on the likely benefits of the different options.**

Option 1: Bring together consumer representation within a single body ("Consumer Voice") and create an ombudsman scheme(s) for the regulated sectors.

53. This option 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.
54. The consolidation of fragmented consumer representation into a single, 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, and 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 a single organisation, thus providing a stronger and more effective policy voice in the UK and EU.

55. In addition, spreading the availability of ombudsman schemes from electronic communications and financial services under this option to electricity, gas and postal services, 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;
- compensation and redress for consumers where this is warranted; and
- the service is entirely free to consumers, and although companies are bound by the decisions of the ombudsman, consumers are not, and are free to pursue further action (usually through the courts) if they do not wish to accept a decision.

56. There will also be benefits for companies as members of an ombudsman scheme, such as:

- access to an ombudsman scheme which can offer certainty of redress will enhance the confidence of customers 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 ombudsman scheme(s) is borne by the relevant companies who therefore gain control of the administrative costs of complaints resolution;
- an ombudsman will provide a valuable way of resolving burdensome and difficult complaints – in the long run it may often 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.

57. Currently, only a few complaints are dealt with by the companies, which places a considerable burden on the 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 an ombudsman scheme exists which is funded by subscriptions from companies and/or by charging companies directly for each complaint referred.
58. This option would potentially also create efficiency savings in the form of economies of scope and scale as all common functions of the existing consumer bodies are undertaken by a single 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 ombudsman schemes; consolidating the existing consumer bodies into a single consumer advocate (Consumer Voice); and reducing the number of regional offices.

Complaints handling

59. Complaints handling would be taken out of consumer bodies and placed in ombudsman schemes funded by industry. As an indication of the cost, complaint handling at Postwatch and energywatch in 2003/04 cost £1.9 million and £5.3 million respectively³⁵. An ombudsman scheme might be expected to cost less than this (in **absolute** terms) for two reasons – economies of scope, depending on the number of sectors which a single ombudsman scheme may cover; and the incentive for firms to solve each complaint themselves to avoid the cost of referring the case on to the ombudsman, assuming that a charge is made by the ombudsman per complaint (the strength of this incentive will depend on the level of the charge per complaint, as agreed between members of a scheme). As a general indication, the electronic communications ombudsman, Otelo, had administrative expenses totalling £1.4m in 2005^{36, 37}.
60. In addition to the cost saving, ombudsman schemes, unlike the existing consumer bodies, can provide certainty of redress for consumers as decisions are binding on the companies (but not on the consumer).

³⁵ DTI and HM Treasury report, July 2004, "Consumer Representation in Regulated Industries" (available at http://www.dti.gov.uk/ccp/topics2/economic_regulation.htm).

³⁶ Otelo Annual Report 2005 (available at http://www.otelo.org.uk/UserFiles/File/Otelo_Annual_Report_2005.pdf?PHPSESSID=8f7a30addc6247afb677cfb6a9cfd1ba).

³⁷ We intend to produce more robust estimates of the cost to industry of establishing ombudsman schemes as part of the research into the total costs and benefits of the proposals, as referred to in paragraph 52 above.

Consolidating the existing consumer bodies

61. Reducing the number of offices by consolidating the separate consumer bodies into a single consumer advocacy body (Consumer Voice) will reduce running costs by exploiting economies of scale and scope. The cost of the head office for Postwatch in 2003/04, for example, including research, policy, complaint handling, network and overheads, was £7.8 million³⁸ (or £7.1 million excluding the costs of complaint handling by the central office included within the figures for complaint handling given above). Consumer Voice would require a single head office to cover all sectors. While the head office for a consolidated body may be more expensive than one covering a single sector, it is expected to be less costly than the total cost of all the existing head offices.

Reducing the number of regional offices

62. 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 budget³⁹.
63. 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.
64. However, a regional dimension to consumer representation may be said to assist with delivery of consumer awareness and education programmes; regional communications functions; maintaining relationships with the regional media; and links with the Scottish Executive and Welsh Assembly.
65. 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, and 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.
66. Over the last few years, those sectoral consumer bodies that do have a regional presence⁴⁰ have all considered programmes of

³⁸ See footnote 35.

³⁹ See footnote 35.

⁴⁰ Energywatch, Postwatch and WaterVoice (now Consumer Council for Water).

rationalisation of their regional offices, with a view to substantially reducing either the number of staff, the number of offices, or both.

67. These moves, together with the proposal to handle complaints in new ombudsman schemes, removes 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 and the Ofcom Consumer Panel as constituent bodies of Consumer Voice⁴¹. The total cost of the regional offices for Postwatch and energywatch in 2003/04 was £10.2 million (£2.5 million and £7.7 million a year respectively)⁴² (including the regional office complaints handling cost included within the figures for complaint handling given above) – this figure should be significantly reduced if only three offices are retained.
68. It will be necessary to consider how a regional representation function (as opposed to a series of regional offices) can be delivered within the proposed model, where this is desirable.
69. Overall, as an indication of the level of the cost savings as a result of these proposals, we could expect to save from annual budgets at least:
- £7.2 million on complaint handling⁴³;
 - an additional £3.7 million from the reduction in the regional office networks⁴⁴; and
 - an additional £7.1 million on consolidation of offices and staff⁴⁵;

providing indicative total ongoing annual savings in the order of at least £18 million⁴⁶.

⁴¹ 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.

⁴² See footnote 35.

⁴³ This assumes costs are reduced by the current amount that energywatch and Postwatch spend on complaint handling, as these duties are taken over by the ombudsman scheme(s). Some of this benefit will be offset by the cost to industry of setting up and funding ombudsman schemes – see section below on costs.

⁴⁴ This is the additional cost of energywatch and Postwatch maintaining a regional presence in 2003/04, over and above the cost of complaint handling.

⁴⁵ As a minimum, this assumes that the cost of a single head office, in this case Postwatch (as an example) is saved through the amalgamation of the consumer bodies and therefore the requirement for one head office only for Consumer Voice.

70. 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.

71. Further cost reductions may be achieved by:

- locating the head office outside of London; and
- utilising the best of the existing Information and Communication Technology systems.

72. Compared to option 3, this model 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 within a single body (“Consumer Voice”) incorporating expert panels, and create an ombudsman scheme(s) for the regulated sectors.

73. In addition to the benefits outlined for option 1 above, this option would provide Consumer Voice with panels of experts in each of the regulated sectors to provide 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.

Option 3: Bring together consumer representation within a single body (“Consumer Voice”) excluding the existing consumer panels, and create an ombudsman scheme(s) for the regulated sectors.

74. In addition to the benefits of option 1 above, further advantages of this approach include:

- it would facilitate the adoption (or retention) of specialist consumer panels by sectoral regulators where they wished to do so;

⁴⁶ It should be noted that these are **not** net savings. The costs of the proposals are set out in the relevant section below.

- it would enhance existing consumer advocacy in those sectors where there is no consumer body with a direct consumer relationship;
- it would retain or create expertise in individual sectors where necessary; and
- it would underpin ongoing co-ordination through cross-appointments between the consumer panels.

Option 4: Retain the current system of consumer representation.

75. This option would result in no additional benefits over those already achieved with the current system. However, it would avoid any one-off costs associated with the other options and the potential for a loss of sectoral expertise, but would also therefore not result in the potential ongoing efficiency savings or consumer benefits associated with the alternative options.

Option 5: Bring together consumer representation within a single body, but do not establish ombudsman schemes.

76. This option would provide a single point of contact for consumers (Consumer Direct) providing consumers in the regulated sectors with a simpler, clearer line of communication for making enquiries and resolving complaints.

77. This option would also create a powerful single consumer advocate body to engage effectively with Government, regulators and industry, and could result in potential cost economies.

78. As an example of the magnitude of the likely efficiency savings, the head office for Postwatch in 2003/04, for example, including research, policy, network and overheads (but excluding complaint handling) was £7.1 million, and for energywatch was £5.2 million⁴⁷. A single consumer advocacy body would require a single head office to cover all sectors. While this may cost more than a head office covering a single sector, it is not expected to cost as much as the total of all the existing head offices, and as an indication of the cost savings could reduce costs by about £7.1 million – the current cost of the Postwatch head office (excluding complaint handling).

79. The extent of the benefits would depend partly on how many consumer bodies were included in the single body. Theoretically, the greater the number included, the higher will be the benefit to

⁴⁷ DTI and HM Treasury report, July 2004, "Consumer Representation in Regulated Industries" (available at http://www.dti.gov.uk/ccp/topics2/economic_regulation.htm).

consumers in terms of both efficiency savings and a single point of contact for consumer issues.

80. However, this option would not provide an incentive for companies to handle complaints themselves. Further, 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.

Question 12: Do you agree with the initial estimates of the benefits of the proposed options? Please provide quantifiable evidence where possible to support your view.

Costs

81. The costs given in this section are **initial estimates** and are **only indicative** at this stage. We intend to undertake more detailed research in order to produce more robust cost figures for each of the options, which may therefore have an impact on our preferred option. **We would welcome views, especially those supported by quantifiable evidence, on the likely costs of the different options.**

Option 1: Bring together consumer representation within a single body ("Consumer Voice") and create an ombudsman scheme(s) for the regulated sectors.

Policy costs

82. The cost to consolidate the existing consumer bodies into a single consumer advocacy body has been calculated on the same basis as those for the proposed Consumer and Trading Standards Agency (CTSA) in the Hampton report⁴⁸. If the non-capital costs are allocated on a per-head basis, the merger of the Financial Services Authority cost £6,120, and the merger of the Office of Communications (Ofcom) cost £30,700. The total number of staff in the five consumer bodies included within these proposals was 503 in 2003/04. Using the cost per-head figures as upper and lower bounds and assuming capital costs of around £4 million (as estimated by the Hampton report for the CTSA), the cost of creating Consumer Voice is estimated as £7.1 million to £19.4 million (one-off current and capital costs).

⁴⁸ Available at http://www.hm-treasury.gov.uk/budget/budget_05/other_documents/bud_bud05_hampton.cfm

83. While the ongoing cost of Consumer Voice would not need to include the cost of complaint handling, there remains the need to determine the residual funding not covered by industry, and whether this should be public or private. If public, there is a risk that this may constitute an increase in public spending.
84. There also exists the 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 ombudsman 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.
85. 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.
86. There is a further possible concern that amalgamating the consumer bodies for the separate industry sectors 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.
87. However, the new consumer body will be responsible for consumer advocacy in all sectors, and will therefore need to ensure that it considers the specific needs of consumers across all sectors in order to ensure that it is an effective consumer 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. However, even within option 1, Consumer Voice will need to ensure it has sufficient sectoral expertise to perform effectively.
88. In addition, option 1 would involve a one-off cost and an annual running cost to industry of setting up an ombudsman scheme(s)⁴⁹. As an indication of the magnitude of the costs involved, the annual subscription charges in 2003/04 for the electronic communications

⁴⁹ We intend to produce more robust estimates of the cost to industry of establishing ombudsman schemes as part of the research into the total costs and benefits of the proposals, as referred to in paragraph 81 above.

ombudsman, Otelo, ranged from £100 for companies with an annual Total Relevant Retail Revenue (TRRR)⁵⁰ of up to £1 million to about £1,600 for companies with a TRRR of £25 million (with charges rising proportionately for companies with a TRRR above £20 million). This charge covered the companies' subscription and also contributed towards Otelo's start-up costs. The case fee in 2003/04 was £350 for each case opened.

89. Making use of existing ombudsman schemes would mean that the cost of setting up a new scheme under these proposals could be avoided and membership fees minimised by taking advantage of economies of scale from the critical mass of existing members. Competition between ombudsman schemes for members should also ensure downward pressure on costs and therefore membership fees.

Administrative costs

90. Option 1 would have the disadvantage that 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.
91. There may be some increase in costs to industry of improving their customer service to deal with complaints themselves, rather than passing on complaints to the consumer bodies. However, this is arguably the proper responsibility of industry.
92. There may also be a marginal administrative cost for business in confirming their membership of an ombudsman scheme with the relevant authority, although this is expected to be minimal.
93. Consumer Direct staff are already trained to deal with complaints across a wide range of sectors, and this training would also need to be provided on the regulated sectors. This additional training might therefore result in a small increase in costs (particularly in terms of staff time), although it is envisaged that existing training will simply be extended to cover the additional sectors. There may be some further costs associated with any additional recruitment or system enhancements required to cope with any increase in call numbers from expanding the sector coverage of Consumer Direct.
94. Existing cross-sectoral consumer bodies, such as the National Consumer Council, are currently the consumer champions for a range of sectors. Staff in the consolidated consumer advocacy body would also need to develop some expertise in the markets covered

⁵⁰ Defined as the retail value of the services and products covered by the Ombudsman service which the company supplies to its domestic and small business customers.

by the proposed changes, and may maintain experts in particular sectors to provide specialist advice where needed.

Option 2: Bring together consumer representation within a single body (“Consumer Voice”) incorporating expert panels, and create an ombudsman scheme(s) for the regulated sectors.

95. This option would be expected to cost about the same as option 1. However, the cost of this option may be marginally higher due to the need to maintain expert panels in the regulated sectors.

Option 3: Bring together consumer representation within a single body (“Consumer Voice”) excluding the existing consumer panels, and create an ombudsman scheme(s) for the regulated sectors.

96. The cost of this option in terms of the consolidated consumer advocacy body (again on the same basis as for the CTSA in the Hampton report) is £7 million to £19.1 million and would therefore be similar to option 1, as the reduction in costs from not consolidating the consumer panels with the rest of the consumer bodies as proposed in this option would be very small.

97. However, the cost of this option may be slightly lower due to, for example, the need for smaller accommodation or fewer support staff for the consolidated body, Consumer Voice. Whether the overall cost of option 3 would be more or less than the cost of option 1 (where the regulators continue to fund the consumer panels) is unclear at this stage, but any differences in overall costs between the two options are expected to be very small.

98. As with options 1 and 2, industry will also face the cost of establishing ombudsman scheme(s) under this option.

99. There are also certain issues associated with this model which would need to be addressed:

- the need for clarity about relative roles for Consumer Voice and a regulator’s consumer panel:
 - the panel would exist (broadly as for the current consumer panels) principally to advise the relevant regulators about the consumer interest;
 - Consumer Voice could provide executive support for all panels for research, analysis, and outreach activities. Regulators would need to provide funding and resource for 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.

Option 4: Retain the current system of consumer representation.

100. This option would not result in any increase in the cost of the system of consumer representation over and above the existing cost of maintaining the separate consumer bodies. However, 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 within a single body, but do not establish ombudsman schemes.

Policy costs

101. The cost of consolidating the consumer bodies into a single body would be as for option 1 – between £7.1 million and £19.4 million.

Administrative costs

102. Staff in Consumer Direct would require additional training to ensure they could provide advice and resolve simple complaints for consumers in the regulated sectors. There may be some further costs associated with additional recruitment or system enhancements required to cope with any increase in call numbers from expanding the sector coverage.

103. There may be some further cost of training staff in the consolidated consumer advocacy body to develop some expertise in the markets covered by the proposed changes.

Question 13: Do you agree with the initial estimates of the costs of the proposed options? Please provide quantifiable evidence where possible to support your view.

Small Firms' Impact Test

104. We do not anticipate that these proposals will have any significant or complex impact on small firms within the sectors affected by the proposed changes.
105. The impact on small firms will depend on the system of funding of the new ombudsman scheme(s). Companies will be required only to belong to an ombudsman 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.
106. Existing ombudsman 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; in electronic communications, 80% of budgeted costs are recovered through the per complaint charge, and only 20% through the subscription charge. The new schemes might follow a similar structure, and could consider lower subscription charges for smaller companies (as Otelo does currently) or companies generating fewer complaints.

Question 14: Do you agree with the assessment of the impact of the proposals on small firms? We would welcome, in particular, comments from small firms on the impact of the proposals.

Effect on competition

107. We do not anticipate that the proposed changes will have an effect on competition in the sectors affected by the proposals.
108. The proposed scheme will have an impact on all firms within the sectors affected in that they will all be required to be members of an approved ombudsman scheme, and will therefore have to pay a fee to contribute towards the cost of the scheme. As industry itself will be setting up the schemes, the fees will need to be agreed by all member firms.
109. It is therefore thought to be unlikely that the fees will be set at levels which will affect competition between firms in the same sector. If charges for a particular scheme are considered to be too high, firms have the option of joining a different scheme, or establishing a new one.

Question 15: Do you agree with the assessment of the impact of the proposals on competition?

Enforcement and Sanctions

110. Depending on the option chosen and the structure of the ombudsman scheme(s) established, there would be a statutory requirement for every service provider to belong to an ombudsman scheme, which must be approved by a regulator. Enforcement will be in line with the Hampton principles of regulatory enforcement, as set out in the Hampton report⁵¹.

Monitoring and Review

111. The reporting and monitoring arrangements for the chosen system of consumer representation will clearly depend on decisions surrounding the structure and remit. Once the consultation has been carried out we will consider the options for these arrangements more fully.

Preliminary Implementation and Delivery Plan

112. New primary legislation will be required to put these proposals into effect. It is currently envisaged that the new arrangements would come into effect in 2007 – 2009.

Summary and recommendation

113. **The currently preferred approach is option 3**, although this will be informed by the views of the respondents to the consultation and the results of the due diligence project to be undertaken shortly.

Option	Benefits	Costs
<p>Option 1: Bring together consumer representation within a single body (Consumer Voice) and create an ombudsman scheme(s) for the regulated sectors (including the existing consumer panels within Consumer Voice)</p>	<ul style="list-style-type: none"> - Single point of contact for consumers (Consumer Direct); - Annual savings of about £18 million from complaint handling, reduction in the regional office networks and consolidation of offices and staff; - Consumer advocacy body has critical mass to engage effectively with Government, regulators and industry; 	<ul style="list-style-type: none"> - One-off cost of creating the consolidated consumer advocacy body (Consumer Voice) of about £7.1 million to £19.4 million; - Some training and potential system enhancement costs for staff in Consumer Direct

⁵¹ March 2005, "Reducing administrative burdens: effective inspection and enforcement", available at <http://www.hm-treasury.gov.uk/media/A63/EF/bud05hamptonv1.pdf>.

	<ul style="list-style-type: none"> - Delivery of greater cohesion and coherence for consumer advocacy; - Ombudsman schemes to ensure redress for consumers and incentives on industry to resolve complaints themselves. 	<ul style="list-style-type: none"> and Consumer Voice; - One-off and ongoing annual cost to industry of setting up an ombudsman scheme(s).
<p>Option 2: Bring together consumer representation within a single body ("Consumer Voice") incorporating expert panels, and create an ombudsman scheme(s) for the regulated sectors.</p>	<ul style="list-style-type: none"> - Single point of contact for consumers (Consumer Direct); - Annual savings of about £18 million from complaint handling, reduction in the regional office networks and consolidation of offices and staff; - Consumer advocacy body has critical mass to engage effectively with Government, regulators and industry; - Maintenance of sectoral expertise within the consumer advocacy body; - Ombudsman schemes to ensure redress for consumers and incentives on industry to resolve complaints themselves. 	<ul style="list-style-type: none"> - One-off cost of creating the consolidated consumer advocacy body (Consumer Voice) of about £7.1 million to £19.4 million; - Potential additional cost of maintaining specialist expert panels within Consumer Voice; - Some training and potential system enhancement costs for staff in Consumer Direct and Consumer Voice; - One-off and ongoing annual cost to industry of setting up an ombudsman scheme(s).
<p>Option 3: Bring together consumer representation within a single body ("Consumer Voice") excluding the existing consumer panels, and create an ombudsman scheme(s) for the regulated sectors.</p>	<ul style="list-style-type: none"> - Single point of contact for consumers (Consumer Direct); - Annual savings of about £18 million from complaint handling, reduction in the regional office networks and consolidation of offices and staff; - 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; - Ombudsman schemes to ensure redress for consumers and incentives on industry to resolve complaints themselves. 	<ul style="list-style-type: none"> - One-off cost of creating the consolidated consumer advocacy body (Consumer Voice) of about £7 million to £19.1 million; - Some training and potential system enhancement costs for staff in Consumer Direct and Consumer Voice; - One-off and ongoing annual cost to industry of setting up an ombudsman scheme(s).
<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 cost.

<p>Option 5: Bring together consumer representation within a single body but do not establish ombudsman 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 of about £7.1 million per annum. 	<ul style="list-style-type: none"> - One-off cost of creating the consolidated consumer advocacy body of £7.1 million to £19.4 million; - Some training and potential system enhancement costs for staff in Consumer Direct and the consolidated consumer advocacy body.
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114. The proposed model 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 single, more effective consumer advocate; and
- creating new ombudsman services in the regulated sectors with the power to resolve consumer complaints. Such schemes would be set up and financed by industry and monitored by the regulators.

115. We currently estimate that this option would cost between £7.1 million and £19.4 million, as well as an additional cost to industry of setting up an ombudsman scheme(s). However, it would also produce savings of around £18 million per annum 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 ombudsman scheme(s) in the regulated sectors to ensure appropriate redress for consumers.

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Annex: List of questions within the partial RIA

Question 12: Do you agree with the initial estimates of the benefits of the proposed options? Please provide quantifiable evidence where possible to support your view.

Question 13: Do you agree with the initial estimates of the costs of the proposed options? Please provide quantifiable evidence where possible to support your view.

Question 14: Do you agree with the assessment of the impact of the proposals on small firms? We would welcome, in particular, comments from small firms on the impact of the proposals.

Question 15: Do you agree with the assessment of the impact of the proposals on competition?

End