



National Audit Office

Report

by the Comptroller
and Auditor General

Department for Business, Energy & Industrial Strategy

Protecting consumers from scams, unfair trading and unsafe goods

Key facts

£14.8bn

estimated value of consumer detriment that needed to be tackled by consumer protection bodies in 2014-15

£165m

estimated cost of the consumer protection system in 2015-16

200

approximate number of different bodies in the consumer protection system

£1,160 billion spend by UK consumers on goods and services in 2015

36% proportion of non-food retail sales conducted online in 2015-16

56% reduction in Trading Standards officers since 2009

46% reduction in nominal budgets for local authority Trading Standards services since 2011

74 average age of a victim of a mass marketing fraud

£4,500 average financial loss per victim of a mass marketing fraud, aged between 75 and 79 years

Unknown impact of consumer detriment on the economy

Summary

1 UK consumers spend over £1,160 billion a year on goods and services. Confident and active consumers play a key role in driving vigorous competition between firms, which then compete to supply what consumers want at the most efficient price. Consumer confidence is vital for both effective markets and economic growth.

2 Consumer detriment occurs when a customer is accidentally, carelessly or deliberately treated unfairly by a business or trader. It can be caused by a wide range of activities ranging from unfair commercial practices, such as misdescribed goods or pressure selling, to scams where criminals operate behind the appearance of a legitimate business.

3 In 2015-16, consumers contacted the Citizens Advice consumer service nearly one million times to seek information on their consumer rights or advice on how to solve specific problems. However, when things go wrong, the effects on consumers can be significant and often include financial loss and psychological impacts; in more severe cases, they can lead to injury or death, for example, from unsafe products. Some 35% of all UK consumers had a consumer problem in 2015. The most vulnerable individuals in society are particularly at risk, for example from being repeatedly targeted by mass marketing scams and rogue traders. Examples of consumer detriment include losses from:

- **Unfair trading.** This is the most prevalent consumer issue, and can lead to significant individual detriment, for example caused by unfair contractual terms, misleading advertising, no access to redress, or high pressure selling. These problems may often be hidden from the consumer who will be unaware that they have suffered detriment.
- **Mass marketing scams, which are widespread and impact on the elderly and vulnerable.** A typical postal scam victim is 74 years old and living alone. Victims aged between 75 and 79 years lose an average of £4,500 each and many experience psychological problems as a result, requiring the assistance of social services. Criminals typically sell on victims' details, with National Trading Standards recently uncovering a list of over 500,000 names.
- **e-crime, which is the most recorded crime in the UK and can affect anyone.** High-volume low-value frauds, for example copycat websites, can involve individuals paying small amounts of money for a service that is free on the legitimate website. Investment fraud involves criminals defrauding wealthy individuals of large sums of money by selling non-existent investments.
- **Unsafe goods, which can cause injury and fatalities.** Common recent examples include make-up that contained carcinogens, counterfeit medicines, and electrical items which caught fire when charging. Counterfeit items are often sold at huge discounts to the legitimate product and may disproportionately affect the poorest in society.

4 The Department for Business, Energy & Industrial Strategy (the Department) has overall responsibility for consumer policy, with some aspects devolved to the Scottish Government. The majority of law enforcement is carried out by local authority Trading Standards services, funded through a centrally distributed revenue support grant (administered by the Department for Communities and Local Government in England and the devolved administrations in Scotland and Wales) and locally raised income such as council tax and business rates. National Trading Standards is funded by the Department and covers regional and national issues. Citizens Advice provides advice and education to consumers, and is the contact point for people who have experienced a problem. The Chartered Trading Standards Institute provides information to businesses on consumer protection legislation. The Competition and Markets Authority uses its consumer powers to tackle market-wide issues to support competition and consumer choice, and has lead responsibility for unfair contract terms and international consumer issues. Together, these organisations make up the consumer protection system and share responsibilities, including:

- enforcing consumer protection legislation;
- providing information, advice and education to business and consumers; and
- consumer advocacy.

5 Consumer law aims to protect people from consumer detriment. It covers areas such as unfair terms, advertising, aggressive practices, and basic contractual rights. The consumer bodies also use a wide range of other legislation, for example the Fraud Act 2006. Other agencies, such as the National Crime Agency, the Police Service and HM Revenue & Customs (HMRC) work with the consumer protection bodies on issues such as trader fraud and imported counterfeit goods.

Scope of the report

6 We evaluated the performance of the UK consumer protection system in our 2011 report *Protecting consumers – the system for enforcing consumer law*.¹ The report's findings prompted the government to introduce major structural and legislative changes to the consumer protection landscape. This report examines the performance of the system as a whole in the context of the threats currently facing consumers. It does not evaluate the value for money of the individual bodies within the system. It also covers the work of other parts of government where these have a material impact on the work of the consumer protection bodies.

1 Comptroller and Auditor General, *Protecting consumers – the system for enforcing consumer law*, Session 2010–2012, HC 1087, National Audit Office, June 2011.

7 We assess:

- the funding and responsibilities of the consumer protection bodies and the changing nature of commerce (Part One);
- how successfully the system identifies consumer threats, and the impact of consumer detriment (Part Two); and
- how effectively the system uses its resources to minimise the occurrence of consumer problems, and how it evaluates outcomes (Part Three).

8 The organisations that enforce consumer protection law also enforce other areas of law to the benefit of consumers, for example Trading Standards enforces laws on animal health and underage sales, and the Competition and Markets Authority enforces laws on competition. These are outside the scope of this report, but we treat them as important contextual factors. Consumer advice and advocacy have been devolved in Scotland, and are also outside the scope of this report.

Key findings

Funding of consumer protection

9 **The Department does not routinely cost the consumer protection system but we estimate that it cost £165 million in 2015-16.** Local Trading Standards services, funded at the local level, received £124 million. The Department funds Trading Standards at the national level (£14.8 million), as well as Citizens Advice (£18 million). HM Treasury funds the Competition and Markets Authority, which spent £6 million on its consumer protection work in 2015-16 (paragraphs 1.8, 1.9 and Figure 4).

Identifying consumer detriment and its impact

10 **There is limited robust data on the overall scale of consumer detriment, but we estimate that consumers lost at least £14.8 billion in 2014-15.** Detriment is difficult to estimate, in particular because in many cases, for example unfair terms, fraud or counterfeit goods, the consumer may be unaware of the detriment or unwilling to report it. Detriment caused by problems the consumer is aware of costs £10.6 billion annually. Using available data on doorstep crime, mass marketing scams and counterfeit goods we estimate hidden detriment is at least £4.2 billion. There are no robust data on the overall wider economic impacts of consumer detriment (paragraphs 2.2 to 2.7).

11 Consumers are facing increasingly complex and wide-ranging threats, in particular from the rise in e-commerce, and scams are becoming more targeted.

The UK's e-commerce market is the largest in Europe and the third largest globally. Consumers often have to give personal data for online transactions, increasing the risks of identity theft and fraud. Resolving problems may be more difficult when traders are based in different jurisdictions. Scams involving extracting personal information from the victim rose 21% in 2015, while Citizens Advice considers that up to one in six products advertised on some e-trading sites are potential scams (paragraphs 1.10 to 1.13).

12 The consumer protection bodies have improved data on consumer threats, but significant gaps still remain. Our 2011 report found major shortcomings in intelligence and data systems. Since then National Trading Standards has created a national intelligence team, all regions now have analyst support, and intelligence logs have risen by 70%. All our case study sites considered that the quality of intelligence has improved. However, there are still local authorities with no or few intelligence logs, the proportion of entries on product safety and e-crimes is low (5% and 3% respectively), and there are still issues with accessing other agencies' databases. Furthermore, consumer contacts to Citizens Advice, a critical source of data, have fallen by 18% in the last four years as consumers turn increasingly to social media to complain and self-help online tools (paragraphs 2.8 to 2.17).

Addressing consumer detriment

13 The Department has improved the overall coordination of consumer protection bodies. Our 2011 report found that the consumer protection system was very fragmented with poor overall system coordination. An integrated approach is now even more essential as commerce has become increasingly national and international. The Department created the Consumer Protection Partnership in April 2012, and key bodies now regularly share knowledge and intelligence, and coordinate work. The Department also created National Trading Standards to cover national and regional issues and establish system-wide case management (paragraphs 3.3 to 3.5).

14 The Department has little control over the majority of resources, making effective system prioritisation difficult. Prioritisation is necessary to use resources cost-effectively to address the highest areas of risk. Some 75% of funding is delivered locally, where local authorities have to balance resources with other services such as social care. We found local authority Trading Standards are incentivised to prioritise local issues, in particular safeguarding. A 2014 survey, shortly after the Department established National Trading Standards, found that only around 7% of local authority Trading Standards were able to organise their service to reflect national priorities. Furthermore, they have to enforce up to 263 different pieces of legislation, with little direction from government on the relative prioritisation of these (paragraphs 3.6 to 3.8 and Figure 4).

15 The loss of resource and downsizing of Local Trading Standards services have led to gaps in coverage at the local level. Effective consumer protection relies on sufficient coverage across the local level, in particular to prevent enforcement gaps. Local Trading Standards has lost 56% of full-time equivalent staff since 2009. Twenty services in England have reduced funding by over 60% since 2011 and some now have only one qualified officer. The funding of smaller services is no longer sufficient for them to undertake significant enforcement cases, and a number of our case study sites were concerned about the viability of their service. There is no consensus on the minimum service level needed to protect consumers adequately (paragraphs 3.10 to 3.15).

16 The system is addressing national and international issues better but long-term planning is insufficient. National Trading Standards, which the Department established in 2012, has prevented around 345 million worth of detriment to consumers since April 2014, with a cost-benefit ratio of around 12.6 to 1. It runs a number of specialist teams which address detriment such as mass marketing scams and the safety of imported products. However, funding of £13.5 million is small set against the size of the problem and annual budgeting prevents proper longer-term planning, with a heavy reliance on short-term staffing arrangements. National Trading Standards was unable to accept any new cases in the last third of the year due to a lack of resources. The Competition and Markets Authority estimates that its consumer enforcement work generates at least £74 million of direct financial benefits to consumers annually, at a cost of £6 million (paragraphs 3.16 to 3.21 and Figure 4).

17 Government's response has not kept pace with the growth in online consumer fraud. The Office for National Statistics estimates that there were 5.6 million incidents of online fraud and computer misuse in England and Wales in the year ending June 2016; the most prevalent recorded crime. Hosted by the City of London Police and funded by the Home Office, Action Fraud is the UK's national fraud and cybercrime reporting centre, and the National Fraud Intelligence Bureau is the national crime dissemination centre. However, responsibility for responding is complex and sits with many different parts of government, including with Trading Standards. National Trading Standards has supported cases leading to convictions of 83 defendants with over 60 years of custodial sentences and £400,000 of confiscation orders. However, Trading Standards has lost e-crime expertise at the local level, and has a low profile with the National Fraud Intelligence Bureau, receiving around only 5% of the total number of referrals. The National Crime Agency considers that government is being outpaced by cybercriminals (paragraphs 3.22 to 3.28).

18 The Department has created opportunities for a more preventative approach to consumer protection. The Department recently introduced legislation strengthening consumer rights and ability for self-protection when things go wrong, for example by clarifying the period within which a consumer can return an item, and including new provisions for digital products. The effectiveness of these measures is reliant on consumer and trader awareness of the law, which is currently low. The Department has also consulted on giving consumer protection bodies civil fining powers although it has not yet decided on the outcome. The Competition and Markets Authority uses civil fining powers widely to deter businesses behaving anti-competitively in its competition work (paragraphs 1.3, 1.15 and 3.20).

Evaluation of impacts and outcomes

19 There is no system-wide reporting of the impacts of consumer protection work. Individual consumer protection bodies report annually on the impact of their work, but the impact of the consumer protection system as a whole is not measured or reported (paragraphs 3.4, 3.17, 3.20 and 3.21).

Conclusion on value for money

20 The UK consumer protection system has made progress since our 2011 report and has a framework in place to enable further improvements. The Department has ensured better coordination, in particular by bringing the consumer protection bodies together in the Consumer Protection Partnership, and integrating case management across the system. Furthermore, individual consumer protection bodies have demonstrated that they have achieved good impacts with limited resources.

21 However, the nature of commerce is changing, and consumer detriment is increasingly national and international rather than local. The system has not yet adapted to these changes. The local level, which receives the majority of funding and where the Department has little influence, has suffered from declining status, significantly reduced capacity, and gaps in coverage which leaves consumers inadequately protected. Furthermore, the scale and sustainability of the response at the national level is limited relative to the problem being tackled and system-wide prioritisation of resources is difficult within the current arrangements. While the system improvements to date are welcome, the system as a whole is not yet demonstrating that it provides value for money.

Recommendations

22 Our recommendations are formulated to build on the work that the Department and the consumer protection delivery bodies have done since our last review, and are aimed at promoting greater system coherence across central government departments and local government. Many of these recommendations fall under the responsibility of the Department, but can be taken forward by the Consumer Protection Partnership where relevant, while some recommendations need to be implemented across government more widely:

- a The Department should ensure that detriment is estimated and reported regularly in a consistent manner.** This could involve a biennial evaluation commissioned and owned by the Consumer Protection Partnership covering analysis of both, problems that consumers are aware of, and available data on hidden detriment. It will ensure that all bodies have insight on the scale, distribution, and trends of consumer problems and can balance the response appropriately.

- b The Department should work with the Consumer Protection Partnership to continue to improve intelligence gathering and sharing across the system as a whole.** This should involve addressing any barriers to intelligence sharing, and in particular making full use of information from consumer contacts.
- c The Department should work with relevant departments, and the Department for Communities and Local Government, towards a shared understanding of risks to consumers.** The governance, accountability, and incentives should be aligned with the delivery of outcomes at the appropriate level in line with the risks identified. This should include setting clear and realistic expectations of what each body should deliver, alongside reporting progress, so as to ensure that system priorities are met alongside local priorities. It could also include representation of Local Authority Trading Standards on the Consumer Protection Partnership.
- d The Department should work with relevant departments, and the Department for Communities and Local Government, to ensure that consumer protection skills and capacity are deployed strategically to reflect how and where detriment occurs.** This would help manage gaps at the local level and could include defining what a Trading Standards service is intended to deliver.
- e In the face of significant funding reductions, the Department should ensure that the most appropriate and cost-effective tool or intervention is available to the system as a whole, including new powers where appropriate.** This could involve, for example:
- Greater use of consumer advice and education to help prevent consumers falling victim to fraud.
 - Further improvements to consumers' ability to resolve complaints directly.
 - The introduction of civil fining powers as a strong deterrent against unfair trading (such as those used in the competition regime).
- f The Department should ensure that its delivery bodies can plan for a longer period than annually.** This should help build resilience into the system to facilitate better staff development and give greater confidence in dealing with cases that are expected to last longer than a year.
- g The Department, together with the Home Office and other government departments, should coordinate further their separate activities addressing consumer fraud.** In particular the Department can raise the profile of the work of Trading Standards. This should ensure a more coherent approach to dealing with consumer fraud, including clear roles in identification, response and reporting of detriment according to relevant skills, powers and resources across government, with fuller recording of the detriment identified and prevented.